APERTURA DE LA SESION

Se abre la sesion a las 10:30 a. m. bajo la presidencia del Presidente, Hon. Claro M. Recto.

EL PRESIDENTE. Lease la lista de los Delegados

MR. INTING. Mr. President, I move that the roll call be dispensed with.

EL PRESIDENTE. Hay alguna objecion? (Silencio). La Mesa no oye ninguna. Se dispensa la lectura de la lista.

APROBACION DEL ACTA

MR. INTING. I move also that the reading of the minutes be dispensed and the same be approved.

EL PRESIDENTE. Hay alguna objecion? (Silencio.) La Mesa no oye ninguna. Aprobada.

MR. ROMERO. Mr. President, I propose that the consideration of the Alejandrino amendment be postponed until we consider the General Provisions.

EL PRESIDENTE. Se ha presentado la mocion de que se posponga la consideracion de las enmiendas del Delegado por Cebu Sr. Enfole nai como del Delegado por Pampanga, Sr. Alejandrino, para cuando se trata de las disposiciones generales. Los que esten en favor de esta mocion, digan si. (Varios Delegados:SI). Los que no lo esten, digan no: (Varios Delegados:NO).

SR. ALEJANDRINO. Sr. Presidente, pido la division.

EL PRESIDENTE. Se ha pedido la division. Los que esten en favor de la mocion, que se levanten. (Se levantan 39 delegados) El Presidente tiene derecho a votar en caso de empate, y voto en favor de la proposicion. Se aprueba la mocion del Delegado por Negros Oriental.

SR. ALEJANDRINO. Sr. Presidente, hay dos mas aqui que se han levantado, pero que no se han contado.

EL PRESIDENTE. Ya se han contado.

SR. ALEJANDRINO. Sr. Presidente, pido la reconsideracion porque hay doce votos que no se han

porqqe hay dos votos que no se han contaron.

EL PRESIDENTE. Eso no es fundamento para la reconsideracion porque el Secretario en el que he contado los votos.

SR. ALEJANDRINO. Si, señor. pero aqui se han levantado el Delegado por Cebu Sr. Gullas, y otro mas que no fueron contados.

L PRESIDENTE. Desse S. S. una votacion nominal sobre estos?

SR. ALEJANDRINO. Si.

EL PRESIENTE. Lease la lista.

VOTACION NOMINAL

EL SECRETARIO Leyendo:

Sre Abaya	Ausente
Abella	No
Abordo	No
Abrigo	No
Addura	Ausente
Albaro	No
Aldeguer	Ausente
Alejandrino	No
Alkuino	Ausente
Alonto	Si
Altavas	nsente
Ancheta	Ausente
Araneta	Ausente
Arcenas	Ausente
Arellano	Si
Artadi	Ausente
Artecho	Ausente
Apuego	No
Balili	Ausente
Baltao	No
Bañaga	Ausente
Barrion	No
Bautista	No
Beltran	No
Benitez	Nó
Benito	Si
Binog	Si
Bocar	Si
Bonto	Ausente
Bobbon	Si
Braganza	Ausente
Briones	Si
Briones	Si
Buencia	Si
Bueno	Ausente
Buslon	Ausente
Cabarroguis	Ausente
Cabile	Ausente
Calleja	Ausente
Canonoy	Si
Carnum	Si
Cario	Si
Cariño	No
Castillejos	Si
Castillo	No

Sr. Castillo	No
Castro	No
Cea	Ausente
Chioco	No
Cinco	Si
Clarin	Ausente
Cloribel	Si
Conejero	No
Confesor	Ausente
Conol	Ausente
Crespillo	Ausente
Cruz C.	Ausente
Cruz R. A	Ausente
Cuaderno	Ausente
Cuenco	Si
Curato	Ausente
Delgado	Si
Diez	No
Dikit	Si
Divinagracia	No
Duguiang	No
Encarnacion	Si
Enriquez	Ausente
Escareal	Si
Eslizo	No
Espeleta	Ausente
Fakanngan	Si
Fernandez	Ausente
Flores	No
Francisco	Ausente
Gaerlan	No
Galang	Si
Ganaun	No
Grafilo	Si

MR. GRAFILO. Mr. President, should we vote "yes", that means in favor of the postponement?

EL PRESIDENTE. Los que esten en favor de la mocion de posposicion, contestaran si, y los que esten en contra, contestaran no cuando sus nombres lidos. Lease la lista.

EL SECRETARIO, leyendo:

Sr. Grafilo	Si
Grageda	Ausente
Guarinña	Ausente
Guevarra	Ausente
Gullas	No
Gumangan	Si
Gumban	Ausente
Gutierrez David	Ausente
Guzman, Al.	Si
Guzman Ant.	Si
Guzman B.	Si
Guzman J.	No
Hernaez	Ausente
Hontiveros	Ausente
Inting	No
Irving	Ausente
Jose	Si
Joven	Ausente
Jumauan	No
Kintanar	Si
Labrador	No

Sr. Kapuman	Ausente
Lapak	Si
Laurel	Ausente
Ledesma	Ausente
Leonardo	Si
Lesaca	Si
Libero	Ausente
Lim	Ausente
Lizardo	Ausente
Lizares	Ausente
Locsin	No
Lopez E	Ausente
Lopez V.	Ausente
Lorenzana	Si
Lorenzo	Ausente
Lutero	Ausente
Maglenco	Ausente
Mansueto	Si
Marabut	Ausente
Maramara	Ausente
Martinez.M	Si
Martinez R.	Ausente
Maza	No
Melendez	Ausente
Melendre	Si
Millar	

SR. MILLAR. Me abstengo.

EL SCRETARIO:

Sr. Moldero	Si
Moncado	Ausente
Montaño	Si
Montesa	No
Montilla	Ausente
Montinola	Ausente
Morales	Si
Mumar	Ausente
Muñoz	Si
Navarro	Ausente
Nepomuceno J.	Si
Nepomuceno R.	Ausente
Nepomuceno V.	Si
Niere	Si
Ocampo	Si
Orense	Ausente
Ortega	Ausente Si
Ortiz L.	No
Ortiz M.	No
Osias	Ausente
Ozamis	Ausente
Palma	No
Paredes	No
Pelayo	Ausente
Perez J.	No
Perez T.	Ausente
Perfecto	No
Piang	Si
Pio	Ausente
Prieto	Ausente
Quirino. E.	Ausente
quirino P.	Ausente
Rafols	Ausente
Ramos	Si
Ranjo	No
Reyes G	No

Sr. Reyes J.	No
Ribo	Ausente
Rocchermoso	Si
Rivera	No
Romero	Si
Romualdez	No
Rozas	Si
Saguin	No
Salazar A.	No
Salazar V.	Ausente
Salumbides	Si
Sandiko	Ausente
Sandoval	No
Sanchez	Ausente
Santos	Si
Sanvictores	No
Sevilla	No
Singson Enc.	Ausente
Sinsuat	Si
Sison	Ausente
Sobrepeña	Ausente
Sotto F.	Si
Sotto V.	Ausente
Suñer	Ausente
Surban	No
Ventura	No
Tanopo	Ausente
Tulawi	Si
Velasco	Ausente
Ventenilla	Si
Ventura	No
Villamor	No
Vullanueva	No
Villarama	Ausente
Villareal	No
Vinzons	Ausente
Ybañez	Si
Ysi'	Ausente
Yusay	No
Zavalla	Ausente
Zialcita	No
Zurbito	Ausente

EL PRESIDENTE. La Mesa va a anunciar el resultado de la votacion.

SR. LIM. Sr. Presidente, voto no

EL PRESIDENTE Con el voto del Sr. Lim, la votacion es empate, 55 contra 55.

SR. BUSLON. Sr. Presidente yo acabo de llegar y voto Si).

Mr. Ribo. Mr. President, I ask leave , if theChair will allow me to vote. I vote "yes".

EL PRESIDENTE Con los votos de los Señores Buslon y Ribo, el resultado de la votacion es 57 afirmativos contra 55 negativos. Se aprueba la mocion de posposicion.

SR. ALEJANDRINO. Sr. Presidente, pido que se lea de nuevo la lista.

EL PRESIDENTE. Para qué? Si S. S. no tenia confianza el la Secretaria, debia haber pedido escrutadoes S. S. no debe poner en tela de juicio el resultado de la votacion

SR. ALEJANDRINO. No es que pongo en tela de juicio el resultado de la votacion.

EL PRESIDENTE. La Mesa deniega la petiticion del Delegado por Pampanga.

SR. ALEJANDRINO Yo apelo a ,la Asamblea?

EL PRESIDENTE. De que apela?

SR. ALEJANDRINO. De la denegacion de la lectura de la lista por la Mesa.

EL PRESIDENTE. Se ha leido ya la lista.

SR. ALEJANDRINO. Deseo que se vualva a leer.

EL PRESIDENTE. La Mesa deniega esa peticion. Los que esten en favor de la decision de la Mesa, digan si (Una mayoria si). Los que estnen en contra, digan no. (Una mayoria No.) Se confirma la decision de la Mesa.

Leese la siguiente enmienda

EL SECRETARIO leyendo: Pagina 25, copia redonda que acaba de distribuirse. (Enmienda de los Delegados Lapak, Vinzons, Garin y Corel).

SR. CUENCO. Sr. Presidente, se acepta la enmienda. Esta parte que se trata de suprimir ya esta contenida en otra parte del draft.

SR. ROXAS. Ante que se vote esta cuestion, Sr. Presidente, quisieramos averiguar del Secretario si la primera Calusula en la pagina 15, articulo 5, se ha suprimido.

EL SECRETARIO. No.

SR. ROXAS. Entonces, si no entiendo mal al caballero por cebu, el Comite acepta la supresion bajo la inteligencia de que el parrafo primero del articulo 5, pagina 14, se mantiene en pie.

SR. CUENCO. Si, señor.

MR. ISTIMO. Mr. Pre

Mr. IMTING. Mr. President, when we took up this section 5, it was decided to refer this provision to the Committee on Style because of the duplication, and our amendments were affected there.

SR. ROXAS. Entonces, Sr. Presidente, provisionalmente nos conformamos con la supresion de este parrafo en el poder ejecutivo porque como se trata de una funcion legislativa, por ejemplo esta parte que dice "which shall be the basis of the general appropriation bill," parece ser que esto corresponde mejor al poder legislative y por tanto provisionalmente nos conformamos y que el Comite de Estilo considere si este asunto debe permanecer en la primera oracion del articulo 5 o suprimirse, tal como se pide en la enmienda del los Reyes. Vinzons and otros.

EL PRESIDENTE. Creo que la cuestion es para evitar la duplicidad, de manera que vamos a endosarla al Comite de Estilo, que determinara cual de las dos disposiciones debe permanecer.

Deseo llamar la atencion de los delegados que vean cual de las enmiendas que quedan, sobre el poder ejecutivo, creen fundamental, y si la Asamblea cree que no son fundamentales esas enmiendas que quedan, pueden enviarse al Comite de Estilo.

SR. LAUREL. Sr. Presidente, yo pido que se lea mi enmienda referente a la facultad de conceder indultos.

MR. CEVILLA. Mr. President, I want to make it known that I have also an amendment referring to the impeachment of the President.

EL PRESIDENTE. Lease la enmienda Cevilla.

EL SECRETARIO, leyendo:

En la pagina 20, linea 1, despues de la palabra "the" insertese la palabra "sole."

SR. GALANG. Sr. Presidente, deseamos hacer constar que

tone

tenemos una enmienda de esa misma naturaleza.

EL PRESIDENTE. Hagase constar.

MR. SEVILLA. Ix intend to withdraw the last part of the amendment.

EL PRESIDENTE. Hagase constar.

MR. SEVILLA. Mr. President and Gentlemen of the Convention: My amendment seeks to insert the word Sole" before the word "power" on line 1, page 20 of the darft.

My only purpose, Mr. President, in inserting this word is o avoid any undue delegation of the pardoning power to any executive officer on the government, besides the President and the Commonwealth or of the Republic. It must be borne in mind that the pardoning power is essentially as executive power and, in the United States, this power has been exercised only by the President of the Republic. I wish that in our Commonwealth, the same power should only be exercised by the President of the Commonwealth or of the Republic.

MR. BOCAR. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Bulacan may yield if he so desires.

MR. SEVILLA. Willingly, Mr. President.

MR. BOCAR. If your amendment is approved, will the President of the Commonwealth have the authority or power to creat a Board of Pardon?

MR. SEVILLA. I do not know the powers of the President under this board. As it is now, there is a Board of Pardon and many opinions have been expressed on this Board saying that it is ..... unconstitutional and it is an undue delegation of power of the Chief Executive. I can not answer the question because it is a disputed question.

EL PRESIDENTE. Que dice el Comite?

SR. CUSICO. El Comite cree innecesaria la insercion de esta palabra. Es elemental que solamente el Jefe Ejecutivo

o del Poder Ejecutivo sea quien tenga la facultad de indultar, y es innecesario añadir que tiene exclusivamente la facultad de indultar. En cuanto al Pardon Board aludido aqui por el Delegado por Bulacan, esta junta no tiene facultad de indultar, es una entidad creada con el unico objeto de auxiliar al Ejecutivo en us trabajos de investigacion a cuanto si debe extenderse o nola clemencia ejecutiva solicitada. Pedimos, por tanto, qe se rechace la enmienda.

MR. SEVILLA. Mr. President, I just want to say a few words with regard to the manifestation of the Delegate from Cebu, Mr. Cuenco, He says that this power is understood to reside, under the present law in He Chief Executive. It must be noted thà under the present law which gives the Governor General the exclusive power, of pardoning power, the Mayor of the City of Manila is also exercising the pardoning power. And this is what we want to avoid, to avoid any ambiguity in this constitution, whereby the Chief Executive of the government whether he be a municipa. or i insular, which tend to exercise the pardoning power. That I want to inser the word so as to emphasize the fact that only the Chief Executive or the Chief Executive of the Commonwealth is responsible and should be the one only to exerxise the pardoning power.

SR. CUENCO. Para una pregunta. Cree S. S. que si no se insertara esa palabra, el alcalde de la Ciudad podria pensar siquiera en que tiene facultad de indultar lo mismo que un presidente municipal o un gobernador provincial?

MR. SEVILLA. Not only to think, Mr. President; in fact the Mayor has already exercised the pardoning power. It has exercised the pardoning power in a certain case; only I do not know the precise case when he exercised said pardoning power, but I am sure the Mayor of the City of Manila has once exercised the pardoning power.

SR. CUENCO. Pero no dice el proyecto, "The president...?"

SR. SEVILLA. Si, señor.

SR. CUENCO. Y entonces por que va a suponer que el alcalde de Manila puede hacer uso de esa facultad. El Alcalde de Manila acaso es el presidente de la republica?

SR. SEVILLA. Precisely, Mr. President, the draft only says that the President shall have the power; it does not say the sole power. That is why I insert that word because without this insertion, it might deprive the Chief Executive to exercise the same power.

EL PRESIDENTE. Se va a votar la enmienda. Los que esten conformes con la enmienda, que digan si. (Varios Delegados. Si). Los que no lo esten, que digan no. (Varios Delegados No). Se rechaza la enmienda.

MR. SANDOVAL. Mr. President, we hve here an amendment on page 30 of the draft making it obligatory on the part of the President, to appoint the Vice-President in his Cabinet.

THE PRESIDENT. We are considering the amendment on the powers of the President.

MR. BALTAO. Mr. President, we have an amendment on page 26 of the list of amendments referring to the Pardoning Power of the President. Mr. Galang and Mr. Ortiz filed an amendment re pardoning power of the Chief Executive, and this amendment has also been included as among the amdnament decided by the delegate from Cebu, Mr. Cuenco.

THE PRESIDENT. Do you like to speake in favor of your amendment.

MR. BALTAO. Mr. Galang will speak in favor of the amendment.

EL PRESIDENTE. Vamos a ir por partes.

Lease la enmienda Galang, Ortiz y Baltao.

THE SECRETARY:

On page 29, at the end of line 6, insert the following: "Provided, however, that the power to grant pardons can only be exercised after the accused has served a part of the sentence imposed upon him; and provided further, that in case

where the convicting court should recommend executive clemency, the same could be exercised by the President even prior to the service of the sentence."

THE PRESIDENT. Read the amendment of Mr. Cloribel.

THE SECRETARY:

On page 29, line 3, after the word "convention" insert the words "by a competen court" and on line 4, strike out the words "except in cases of impeachment."

EL PRESIDENTE. Que dice el Comite?

SR. SOTTO F. El Comite no acepta la enmienda.

Sr. Presidente, siento mucho el Comite no poder aceptar la enmienda, por las razones siguientes: Vamos a comenzar por dividir la enmienda en dos partes; Una, la que se refiere a lasSecretarios Departamentales, y otra, la que se refiere a los Jefes de Buros u Officinas. Referiendome por ahora a la cuestion de los Secretarios Departamentales, parece claro que siendo por seis años el ejercicio del Presidente, y siendo los Secretarios Departamentales directamente responsables ante el Jefe Ejecutivo, y personal de su confianza, escogido por el, parece mas justo no fijar ningun plazo para la duracion de estos cargos, porque en todo momento estos Secretarios Départamentales dependeran de la confianza que tenga en ellos el Jefe Ejecutivo.

Vamos ahora al otro lado, al lado de la Asamblea Nacional. Los Secretarios Departamentales puede comparecer por si, o ser llamdaa por cualquier asunto publico, a excepcion de los que constan en nuestra Constitucion. En una de esas como empleado en la Secretaria Ejecutiva, para mejor decir desde 1916, ha comenzado las infracciones de la Ley Electoral. Todavia es fresca en la memoria tambien de los delegados que estan presente aquel caso que ocurrio en Camarines Sobre fraudes y robos de urnas, despues de esa fecha de la elección de 1916, no solamente en Camarines sino en otras partes hubo robo de .....
de urnas y fraudes electorales. Despues de esa fecha

de los elecciones de 1916, no solamente en Camarines sino en otras partes, pero aumentando los infracciones de la ley electoral. Asi es que Sr. Presidente, a que se debe eso? Sr. Presidente, como se trata de una infracción de la ley electoral, el que lo comete no lo comete por un accidente, sino por que premeditamente lo estan haciendo los inspectores y otros interesados en el triunfo de tal o cual candidato. Triste es decirlo, pero es la verdad que si muchos inspectores se han envalentonado cometer fraudes electorales era porque han sido inducidos por politicos sin escrupulo, por lideres irresponsables de que podian cometerlo, porque no obstante que hayan cometido, si salen acusados, no seran condenados, y si salen condenados seran en segvida absueltos por los trabajos de los grandes politicos por quienes estaban trabajando.

MR. PEREZ J. Por instance, a person is convicted of the violation of election law and subsequently after his conviction if it is found out that he was really innocent, how would you remedy the situation?

MR. LAPAK. I think if the Court after convicting an accused for th violation of the election law, if the accused or his attorney know very well that in accordance with he provisions he is innocent his attorney and the accuse, or his attorney would appeal to the Supreme Court. In that case I do not believe tht there will be conviction without sufficient proof to sustain the conviction.

MR. PEREZ J. I am giving a case where the Supreme Court has already affirmed evidence the decision of conviction of a person but subsequently evidence was presented and it was found out that the accused was really innocent.

MR? LAPAK. But in what way the evidence can be introduced, judicially or administratively, or by affidavits of persons making rectifications of the witness done in court?

MR. PEREZ J. For example under the elecction law a person is accused of critizing anonymously a certain candidate

he is convicted in the Supreme Court also convicted him but afterwards it was found that the person who really criticized came out and said, I am the person who made the criticism. I am the one guilty of the election and not that peron convicted by the Supreme Court. How would you remedy the situation?

MR. LAFAK. If the complaint who has compaliendd against the accused who was convicted because of the proof presented by him makes the rectification after the conviction by the lower court has been affirmed, that rectification is doubtful.

MR. PEREZ J. If the person who really violated the election law has never testified he who not even prosecuted?

MR. LAFAK. You being an attorney you know all many cases. After conviction they get declarations or rectifications made by witnesses in order to get the acquittal of the person convicted. For that reason I am presenting this amendment in order to cut, in order to avoid the further commission of the infraction of the election during and after the Commonwealth.

(Prosiguiendo). Hemos visto ya esto mal y estamos ahora redactando una carta fundamental y que en esta carta podemos hacer muy bien poner preceptos que puedan remediar el mal y para que no puedan acogerse y no cometen otra vez aquellos que solamente por induccion de que no pueden ser inmediatamente indultados por los que si salen grandes politicos, entiendo que es necesario que esta enmienda debe sostenerse, porque es el unico medio para que no puedan alegar que los inocentes inspectores, aquellos lideres sin escrupulos, dejando a sus familias por la creencia de que puedan en seguida indultados, cometen los delitos precisamente por infracciones de la ley electoral. Asi es que, Sr. Presidente, yo pido que se apruebe esta enmienda.

LA ENMIENDA LAPAK ES RECHAZADA

EL PRESIDENTE. Se va a votar la enmienda. Los que esten conformes con la enmienda, que digan si. (Una minoria:Si Los que no lo esten, que digan no. (Una mayoria: No). Se rechaza la enmienda.

SR. ABORDO. Mr. President, I have an amendment similar to the amendment presente by Delegate Sandoval and Lapak with regard to making the vice-president a member of the Cabinet.

EL SECRETARIO?, leyendo: By Delegat Cuenoy:

En la pagina 29, linea 4, despues de la palabra "impeachment", insertese lo siguiente, "and fraud committed against the government."

MR. CANONOY. Mr. President, gentlemen of the Convention: The idea of the amendment is to exclude fraud against the government like malversation and others. The purpose is to protect public funds and property and to do away with those who are inclined to malverse public funds and property. That is is the basis of our amendment and we submit it to the vote of this august body.

EL SR. SOTTO, F. El Comite no acepte la enmienda.

LA ENMIENDA CANONOY ES RECHAZADA

EL PRESIDENTE. Se va a votar la enmienda. Los que esten en favor de la misma, que digan si. (Una mayoria: SI). Los que esten en contra, que digan no. (Una minoria: NO.) Se rechaza la enmienda.

THE SECRETARY: By Delegate Galang: En la pagina 29, al final de la linea 6, añadase lo siguiente: "Provided, however, that the power to grant pardons can only be exercised after the accused has served a part of the sentence imposed upon him; and Provided, further, That in cases where the convictingscourt should recomend executive clemency, the same could be exercised by the President even prior to the service of the sentence."

MR. GANVICORNS. Mr. President, inasmuch as I have an amendment similar to the amendment of Messrs Canonoy and Galang, I should like to reason out if that amendment is con-

sidered at the same time.

THE PRESIDENT. Yes, but Delegate Galan will speak first.

MR. GALANG. Mr. President and gentlemen of the Convention: This amendment has been approved by the Committee on Executive Power and reported favorably by it. Then we filed this amendment, in order to give this Convention the opportunity to discuss it thoroly. The amendment is to limit the power of the Chief Executive to grant pardon only when the accused has served a part of the sentence imposed upon him except however in those cases where the convicting court shall recommend executive clemency in which case the same could be exercised by the Chief Executive even prior to the serving of the sentence. Mr. President, altho the pardoning power of the Chief Executive is based on good principle, however, in practice generally it is being conceded only in favor of the the few and of the influential because pople who are from the barrios..... of persons who are convicted for a crime in any manner whatever with how influence kink of the goverment, has absolutely no opportunity to secure for pardon because he has no influence in the goverment. For this reason, we would like to limit this pardining power only after the accused has served part of the senence, so that even if the exercise of the pardoning power, it could not be easily granted to those poor persons who have be influence in the goverment. The accused even if he is influential, he can not be pardone unless he serves a part of the sentence imposed upon him. In which case, the act shall be exercised by the Chief Executive. It is an act of courtesy, it is an act fof respect towards the court as transpired in the courts of justice.

MR. BOCAR. Mr. President, will the gentleman yield to a question.

THE PRESIDENT. The gentleman from Tarlac, may yield if he so desires.

MR. GALANG. willingly, Mr

MR. MOCAR. Under the second part of your amendmend, will i it Be mandatory on the part of the Presient to grant pardon after the conviction by he court and after the accused has served his sentence?

MR. GALANG. It is discretionary; he may exercise it or not.

MR. MOCAR. Another qestion. Con't you think that it is part of the proceeding to leave it up to the discretion of the Chief Executive to grant pardon when a person is convicted, according to his discretion, rather than limiting his powers only to conviction after the accused has served a part of his sentence?

MR. GALANG. I do not believe in that way. That is why we present this amendment in order to limit his pardoning power so that he would exercise it only after the accused has served a part of his sentence imposed upon him, in which case, it will be matter of courtesy towards the court.

MR. MOCAR. There may be a special and extreme case where a court of justice may convict a person, whih in the eyes of the chief executive, requires the immediate exercise of the pardoning power. If we limit this power until after it has prescibed that right, after the prescribed period, that would result in mis-carriage of justice.

MR. GALNAG. No, gentleman, it is the courts of justice who must determine whether the accused is guilty of not. And if the chief executive thinks the accused is guilty, he must at least serve even for one minute.

MR. CINCO. Will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Turlac may yield if he so desires.

MR. GALANG. Willingly, Mr. President.

MR. CINCO. Don't you believe that the right to grant pardon in this constitution and as may be found also of other countries is based upon the principle that the accused has

been found innocent?

MR. GALANG. No, not necessarily, especially some writers like Black's on Constitutional Law, say that when pardon is given it presupposes that a person has committed a crime and he is guilty and has to suffer the penalty imposed upon him.

MR. CINCO. Don't you believe that an accused person convicted by the court has made to suffer even for one minute and afterwards released thruogh and executive clemency, that the act is not a pardon but a commutation of the sentence?

MR. GALANG. A commutation of the sentence hnd pardon are two different things. The gentleman is a lawyer and knows very well the difference between of commutation and the sentence and pardon.

MR. CINCO. Because in this provision is provided that the President shall have the exclusive power to commute the sentence or to shorten the period of the sentence.

MR. GALANG. He has the power to commute the sentence in order to give at least respect to the decision of the court, not to make the decision of the court a mere scrap of paper.

MR. CINCO. I am sorry I can not agree with the gentleman.

MR. YBAÑEZ. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Tarlac may yield if he so desires.

MR. GALANG. Willingly, Mr. President.

MR YBAÑEZ. What is your interpretation of the phrase "part of the sentence?"

MR. GALANG. Well, it means that after the accused has been convicted, for example, he has been sentenced for ten years and he has already served even for one minute, that is the meaning of the phrase "part of the sentence."

MR. YBAÑEZ. If the sentence is a dead penalty, how could that be served?

MR. GALANG. That is a different case. The Supreme Court may commute the sentence to life imprisonment and after the commutation of the life imprisonment, he may be pardon after serving a part of his sentence.

MR. YBAÑEZ. So your amendment is not complete.

MR. GALANG. Well, I believe it is already complete. Mr President, and if the gentleman from Cebu has some amendment to present, he could do so and we will have no objections.

MR. PEREZ, J. Mr. President, will the gentlemen yield to a question.

THE PRESIDENT. The gentleman from Tarlac may yield if he so desires.

MR. GALANG. Gladly, Mr. President.

MR. PEREZ, J. For instance, after the conviction and during the appeal in the Supreme Court he fails to present a motion for a new trial on the ground of new discoverable evidence consisting the admission of a third person that he is really the author of ....

the crime, the Supreme Court finds that the accused is not really the author of the crime and the Supreme Court remands the case to the lower court for a new trial, would you want the accused in this instance to suffer humiliation by wearing a prison garb in spite of the fact that the Supreme Court found him innocent?

MR. GALANG. If the supreme court is convinced that he is innocent, the Supreme Court would not refer the case to the Court of First Instance for a new trial.

MR. PEREZ J. In the instance which I have just given the supreme court has necessarily has to refer to the Court of First Instance because the Supreme Court can not receive any evidence.

MR. GALANG. Well, if there is any evidence in order to determine whether he is guilty of not, the accused must be tried. If he is guilty, he must serve his sentence.

MR. PEREZ J. Precisely, the order that the Supreme Court has given is for a new trial, and if the Supreme Court is convinced of the fact that the evidence presented a new trial sustains - the argument that the accused is really innocent, then in that case you place the accused in humiliation.

MR. GALANG. I am sorry to disagree with the opinion of the gentleman from Negros Occidental because the hyphothetical case given by the gentleman is not true. We doubt as to whether the accused will be convicted in the Court of ~~First Instance~~ justice or not. If t e accused is convicted in the Court of First Instance and the in the Supreme Court it is found that he is not really guilty by innocent, of course he will not be place in prison.

MR. RIVERA. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Tarlac may yield if he so desires.

MR. GALANG. Gladly, Mr. President.

MR. RIVERA. Under the proposed amendment, supposing the accused is sentenced to twenty years? The amendment merely say that the accused has to serve part of the sentence. Now, if the accused is convicted for twenty years and he has served only his sentence for one day and pardoned by the Governor General according to your amendment, his sentence is commutted. Am I correct?

MR. GALANG. Yes.

MR. RIVERA. What is the practical difference between the exercised of the pardoning power which can be exercised by the Chief Executive at any time after conviction ad the amendment proposed when the person is convicted from twenty years after serving one day can be can be pardoned just the same?

MR. GALANG. The difference, as I said before, the chief executive could exercise executive clemency even prior to the service of the sentence and with respect to the amendment, the

accused must serve his sentence even for one day. That is the difference, Mr. President, that if the amendment will be approved, the President shall show sign of respect or courtesy to what has been decided by the courts of justice, and not by converting the decision of the court as a mere scrap of paper.

EL PRESIDENTE: Tiene la palabra el Delegado por Bukidnon, Sr. Sanvictores.

SPEECH OF DEL. SANVICTORES

MR. SANVICTORES. Mr. President and gentleman of the Convention: Students of criminology are agreed, I believe that the best deterrent to crime is not the imposition of an unusual and cruel punishment but rather the speed in the dispensation of justice and in he exactness in the e execution of the sentence imposed. That is the reason that many students of crimes prefer the English system, the English judicial system, because in England, not only are the judges elected from men who make their careers in the judiciary department, but these judges use their prosecuting officials to decide cases in a more expeditious way, and when the prisoner is convicted, he knows before he enters the prison door that he is to stay inside the prison to the last minute of the sentence imposed upon him.

As against the system practiced in England, we have the American system where it takes a much longer time for the criminal to be taken to court, and when a large percentage of the criminals arraigned before the court and not free and a large percentage of those who are convicted either secure complete pardon or parole. We have the records of two courts, of England and the United States; and if this record is to be in index of the relative efficiency of the two systems, the verdict must go in favor of the English system as the better system in administering justice. This amendment that

I propose is similar to the other amdnement presente by Messrs Galang and others. I should like to call the attention of the Assembly to two important differences, however, first the Galang amendment proposes that the chief executive may grant pardon after the prisoner has served part of the sentence; under my proposed amendment, I suggest that the chief executive be not permitted to exercise this power under his own exclusive authority until after the convicted prisoner shall have served at lease one of the minimum sentence imposed. The other difference is: When the President of the Commonwealth desires to exercise the pardon, the power of pardon, before the prisoner has served one of the sentence imposed upon him, he may do so only upon the recommendation of the Supreme Court. Under he Galang amendment, the Chief Executive may exercise the power of pardon upon recommendation of the convicting court. I wish to call attention to the fact that if we adopt the Galang amdnendnt, there may arise different version in the procedure whereas if we give this power of recommending a complete pardon before a full sentence has been served to the Supreme Court, there is bound to be a greater uniformity.

MR. PEREZ, J. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield if he so desires.

MR. SANVICTORES. Willingly.

MR. PEREZ, J. I understand that the amdndment under consideration is the amendment presented by Delegate Galang, and others.

MR. SANVICTORES. I asked the Chair to have my amendment which is similar considered at the same time, so we are now considering the two amendments.

MR. PEREZ, J. Do we understand that you have withdrawn your amendment and you are speaking in behalf of the first amendment?

MR. SANVICTORES. I am not withdrawing my amendment. If the gentleman who have presented the first amendment are

are willing to accept the suggestions I made that the prisoners must serve before he can secure pardong and also the recommending power must be given to the Supreme Court rather than by leaving to the convicting court, then this amendment may be incorporated, and the Committee on Style with the Galang amendment.

MR. PEREZ, J. If this convention votes down the Galang amendment, does not the gentleman think that the convention votes down also your amendment?

MR. SANVICTORES. I do not think so, considering the different features of the two amendments.

MR. PEREZ, J. So that the two separate amdmadnets have different features, and therefore thse are two separate amendments?

MR. SANVICTORES.I like the suggestion of the gentleman from Occidental Negros. If the Convention would like to vote on the two amendments separately, I have no objection, but I thought on speaking on this amendmnt of mine at the same time so as to consider the different features that ghave pointed to and to save time. That is the reason why I prefer to have my amendment considered at the same time as the amendment of Delegate Galang and others is being considered. But I appreciate the suggestion of the gentleman from Occidental Negros, and so if the Convention should see fit, it can so deci decide.

MR. HINAG. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. SANVITORES. With pleasure.

MR. HINAG. As your amendment stands, it is the Supreme Court that will do the recommendation. Suppose a case wherein the accused has been convicted by the Court of First Instance and that case has not been brought up to the Supreme Court on appeal, how can the Supreme Court make the recommendation with regard to the pardon of the accused?

MR. SANVICTORES. In tha

MR. SANVICTORES. In that case, the Supreme Court will ask the convicting court to forward the papers to the Supreme Court for revision of the points considered by the convicting court in making the recommendation for pardon. I presume that t that would be the procedure adopted but as to the matter of details, the Supreme Court will attend to that.

MR. RINAG. But how can the Supreme Court know and decide if one is deserving a pardon if the Supreme Court has no intervention in the consideration of the Case?

MR. SANVICTORES. I said that the Supreme Court may ask for the papers to ~~be~~ forwarded to the Supreme Court so as to enable it to consider the points that the convicting court has in mind in recommending, the pardon. I do not wish to insist on that feature, but it seems to me that if we wish to accept it, we would have greater uniformity in the exercise of the recommending power which we give to the trial court.

MR. RINAG. So under your amendment, you would like to convert the Supreme Court into a pardoning court to study all cases of pardon.

MR. SANVICTORES. I do not see any objection to make a division in the Supreme Court to take charge of those cases that are brought to it asking for pardon.

SR. ORTEGA. Sr. Presidente, para algunas preguntas al orador.

EL PRESIDENTE. El orador puede contestar si le place.

SR. SANVICTORES. Si, señor.

SR. ORTEGA. Segun entiendo de la peroración de S. S. y tambien de la del otro orador, que lo que se pretende con esta enmienda es que haya igualidad entre los ciudadanos; no solamente ante la ley, sino también ante el Ejecutivo.

SR. SANVICTORES. Si, señor, precisamente iba a decir eso.

SR. ORTEGA. Porque lo que generalmente; sucede, es que los mas favorecidos de la fortuna y los que tienen padrinos

son los que consigue los indultos electoricos.

SR. SANVICTORES. Agradezco esa indicaci´on de S. S.,

SR. ORTEGA. Ha visto S. S., que algun pobre o algun desheredado de la fortuna que no tenga padrino, haya conseguido su indulto antes de entrar en la carcel?

SR. SANVICTORES. Puede que haya, pero la verdad es que el pobre no tiene la misma oportunidad de conseguir que su peticion de indulto sea considerada de igualmanera que la de aquellos que tienene mas accesso con el Ejecutivo.

SR. ORTEGA. Y ademas, uno de los objetivos de esta enmienda es que haya diferencia hacia los juzgados la Corte Suprema.

SR. SANVICTORES. Si, señor. Haciendo que estos que conocen mejor del asunto puedan ser oidos antes de la concesion del indulto, para que este sea justo.

MR. GUZMAN Al. Mr. President sill the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires

MR. SANVICTORES. With pleasure.

MR. GUZMAN Al. I entertain great doubts about this amendment. Supposing that the accused has been convicted by false testimony of witness, that is to say, he was condemned to suffer an imprisonment in spite of the fact that he was innocent. Would Your Honor in this case limit the power of pardon of the Executive to pardon the accused or the convicted person without anyfurther recommendation of the Court?

MR. SANVICTORES. Mr. President, the amendment makes provision for such a contingency. If the gentleman from La Union will read my amendment, he will notice that it says: "No pardon shall, without the recommendation of the Supreme court, be granted etc." Therefore, if the Supreme Court recommends the granting of a pardon even before the prisoner enters the prison, the Governor-General, may, if he so thinks, grant the pardon.

MR. GUZMAN, Al. Hent according to your amendment, no

no pardon shall, without the recommendation of the Supreme Court, be graned until the prisoner shall have served at least one-half of the minimum sentence imposed. The governor-general, as a matter of fact, could not have any power to p pardon without consulting the Supren Court.

MR. SANVICTORES. That is, if he wants to pardon the prisoner before he shall have served the one-half of the minimum sentence imposed.

MR. GUZMAN Al. But according to your amendment, the Supreme Court has to be consulted.

MR. SANVICTORES. If he wants to grant the pardon before the expiration of one-half of the minimum sentence.

MR. GUZMAN Al. Yes, but is it not a fact thatthe courts are all self-conceited? They always stick to their decision?

MR. SANVICTORES. It seems to me that that objection of the gentleman from La Union is an argment in favor of giving this power to recommend, to the Supreme Court, so that we will give the highest court the ground to make the recommdation in the confident hope tht that highest court will be less influenced by thise more worldly consideration of pleasing other people, or of simply upholding a decision rendered, though it may be erroneous.

MR. GUZAN, Al. But does not the gentleman believe that if an innocent man is convicted on the false testimony of witnesses, he is entitled to immediate pardon without further consultation from the Supreme Court?

MR. SANVICTORESANIf the Supreme Court and the Governor-General are convinced that the convicted man is innocent, then we have these two elements concurring in the grant of a pardon. I do not believe that the fear of the gentleman is founded. I cannot conceive of any instance where the Supreme Court, knowing that the mand had been convicted innocently would willingly

insist on the man serving sentence.

MR. GUZMAN, Al. Now, in this particular case where the accused is innocent, but in spite of his innocence he was condemned by te court on the apparent merits of the false witness or testimony of the witnesses. Supposing that the accused would ask pardon or would present a petition of pardon to the Executive, under your amendment, I understand the Chief Executive, is not in a position or is not empowered to grant the pardon without consulting first the Supreme Court of the Philippine Islands.

MR. SANVICTORES. That is true under the amendment. It is very clear, very simple. The Governor-General may not pardon any one before he shall have served one-half of the minimum sentence imposed, and unless the Supreme Court recommends the granting of a pardon. However, I want to ask the gentleman, who will determine whether a man is convicted innocently or not, and on what ground can anyone determine that?

MR. GUZMAN, Al. The Governor-General can do that.

MR. SANVICTORES. On what testimony?

MR. GUZMAN, Al. Supposing the accused has been convicted on the testimony of false witnesses.

MR. SANVICTORES. But who will determine whether the witness is false?

MR. GUZMAN, Al. And other affidavits that witnesses or the conviction would present to the Governor-General to the effet that he was withdrawing everything that he had said against the accused. Now, under this amendment of Your Honor, the Governor-General would not be able to act at all immediately to pardon the innocent person.

MR. SANVICTORES. I shall make this question. Does the gentleman from La Union believe that if that affidavit were presented to the Supreme Court, that the Supreme Court could deliberately refuse to recommend pardon, if the

if the testimony on which he was convicted should proved o be false? I do not believe that.

MR. GUZMAN, I. The Supreme Court will have to consider the merits of the affidavit. But the question is to gain time. If the man is really innocent, what is the use of consulting the Supreme Court, if the merits of the petition, for ejemplo, presented to His Excellency the Governor-General, why do we have to consult the Supreme Court yet, if it is a fact that he is innocent?

MR. SANVICTORES. I realize that if an innocent man is sent to prison, there should be no loss of time in freeing him.

MR. GUZMAN, Al. Have you ever known that there are innocent man that have been wrongly convicted by the court who are found in Bilibid because of the false testimony of witnesses?

MR. SANVICTORES. I say I agree that we should do anything to free an innocent man who is in Bilibid. At the same time, the amendment, as the gentleman recognized, is presented with one idea, and that is, to curtail the pardoning power of the Executive in order to stop whatever abuses may have been committed or may be committed.

SR. KAPUNAN. Pero un turno en contra.

SR. VENTURA. Quisiera dirigir algunas preguntas al chairman del Comite sobre esta parte del proyecto.

EL PRESIDENTE. El chairman del Comite puede contestar.

SR. VENTURA. Quisiera saber si el Comite tiene en cuenta esta parte del parrafo ocho, pagina 29-A que dice: "conceder indultos y condonar multas y confiscaciones despues de dictar sentencia condenatoria por delitos de cualquier especie." Ahora, esta disposicion no va a privar al jefe ejecutivo de la nacion de pedir amnistia para delitos politicos? Creo que va a privarle de ese derecho.

SR. CUEVCO. Esta sbsluida en esa facultad. La Amnistía Sr. Presidente, solo puede decretarse mediante ley por la Legislatura.

SR. VENTURA. No el Presidente de los Estados Unidos hizo eso en los primeros años del gobierno americano, en 1902.

SR. CUENCO. La facultad de indulto tiene que ejercerse despues de que se haya decidido el asunto finalmente, y no antes, porque de lo contrario seria una usurpacion de los poderes judiciales.

SR. VENTURA. Sr. Presidente, es muy importante que el jefe ejecutivo de la nación tenga ese poder.

SR. CUENCO. No se puede, porque la facultad de amnistía debe ejercitarse por la Legislatura.

SR. VENTURA. Ademas, se practica en todos las naciones que el jefe ejecutivo de la nación muy raras veces hace uso de esa facultad de indultar antes de ser condenado el acusado. Por eso debemos eliminar esta parte del parrafo que dice "despues de dictar sentencia."

SR. CUENCO. Seria peligroso. Ahora, Sr. Presidente, cual es el asunto en orden.

EL PRESIDENTE. Hay algunas turnos registrados en contra de la enmienda, uno de ellos es el Delegado Cinco y el Delegado Kapunan.

MR. MUÑOZ. Mr. President, will the gentleman yield?

EL PRESIDENTE. El orador puede contestar, si lo desse.

SR. CUENCO. Si, señor.

MR. MUÑOZ. Do you mean to recommend, according to the draft, that the executive clemency can be exercised by the President after conviction and before committment to prison?

MR. CUENCO. No, sir. The idea is that the power of pardon can be exercised only after the conviction and before final judgment has been rendered.

MR. MUÑOZ. I mean to say that it may take place before

the convicted person is committed to prison.

MR. CUENCO. Yes, at any time after the judgment becomes final.

MR. RUIZ. But would the committee accept an amendment that it should be exercised only after conviction and after commitment?

MR. CUENCO. That is the provision of the draft.

MR. CINCO. Mr. President, I should like to speak against the amendment.

EL PRESIDENTE. Tiene la palabra el Delegado por Samar.

SR. CINCO. Cedo mi turno, Sr. Presidente, al Delegado por Leyte, Sr. Kapunan.

EL PRESIDENTE. Tiene la palabra el Delegado por Leyte.

DISCURSO MEN CONTRA DEL SR. KAPUNAN

SR. KAPUNAN. Sr. Presidente y caballeros de la Convención: No tenia proposito de molestaros a no ser por las preguntas del caballero por La Union que me han sugerido la idea de intervenir en esta cuestion.

Yo soy partidario de que los poderes del Presidente de la Mancomunidad Filipina sean tan amplios en la cuestion de indulto. Si vamos a aceptar la teoria del gobierno americano, pues alli no hay limite en el uso del privilegio de indultar; alli se puede indultar aun antes de la conviccion y después de la conviccion. Pero no es este el caso que se discute ahora. Si me opongo a la enmienda es porque hay casos en que necesitamos hallar un poder para ejercer el privilegio, que yo llamaria de revision y no de indulto. Esto sucede en los casos cuando el acusado o cuando el convicto es inocente.

Sr. Presidente, la historia de las naciones registran casos en que muchos inocentes han sido enviados al patibulo y otros al destierro aun siendo inocentes y despues

de haber sido probada su inocencia. Yo quisiera ver en nuestros parlamentos esa facultad de revisar las decisiones ya firmes de nuestra Corte Suprema o tribunales militares. No tenemos este poder en nuestroparlamento ni en nuestra corte suprema, y yo quisiera que a falta de una institucion donde resida este poder se hallase en el Ejecutivo. Recordaran los Caballeros de esta convencion el caso de Dreyfus. Dreyfus ha sido convicto por tribunales militares y estuvo en el destierro durante diez años; despues por falta de leyes o por falta de poder, digamoslo asi, en el Presidente de laRepublica Francesa, ha tenido su inocencia, y Dreyfus, despues de perder sus grado militares, ha sido reivindicado y todavia pudo tomar parte en la guerra mundial. Un caso mas reciente es lo que en America han dado en llamar "el milagro de Missouri." La Corte suprema de aquel Estado condeno a muerte a un hombre, despues fue ejecutado, pero, por su fortuna, no murio en la ejecucion y el pueblo que estaba presente en la ejecucion la protegio. El Fiscal General de la misma Union americana ha tenido que llevar el asunto otra vez a la Corte Suprema Federal, y esta volvio a condenarle a horca, y cuando iba a ser ahorcado el pueblo le protegio, rompio las prisiones en la vispera de la ejecucion donde estaba encerrado y se le hizo escapar Mas tarde se probo su inocencia, porque el verdadero culpable, el autor de la muerte se confeso culpable del asesinato Estos casos que son pocos verdaderamente, sin embargo se repite en la historia. Que medios tenemos para poder corregir un error? Yo no quisiera que esto se llame indulto, porque el indulto solamente se concede a los culpables; pero a los inocentes, que se les hace? Creemos no podemos disponer de esta facultad en favor de la Corte Suprema o de otra institucion; que vaya yo al presidente. El presidente tiene facultad en este sentido

en este sentido y esa se la razon aunque siendo remote, sin embargo estos casos puede ocurrir; las instituciones humanas son indebles y puede que nuestros tribunales se equivocan, pueden los muertos, aun siendo muertos, por la sentencia de los juzgados, su memoria puede ser conservado, y por estas razones me opongo a la enmienda del caballeropor Zamboanga.

EL PRESIDENTE. Tiene la palabra el Delegado Cinco.

MR. CINCO. I wish to make of record that I propose this amendment because it seems to me the basis of the amendment is that the ChiefExecutive may abuse his power and that the pardoning power may be exercised only when the accused is presumed to be guilty, which seems to me that it is going out of principle of pardoning power. To pardon may be granted to an accused who is already found innocent, even before the prisoner has been turned to the Bilibid.

EL PRESIDENTE. Que dice el comite ?

SR. CUENCO. El Comite se opone y pido que se vote.

MR. SANVICTORES. Mr. President, if that amendment of mine may be considered as an amendment to the amendment in that sense, I accept.

THE PRESIDENT. The chair does not consider that your amendment is involved in the amendment of Delegate Baltao and others.

MR. SANVICTORES. In that case, I would like to ask a separate vote for may amendment.

SR. PRESIDENTE. SE va a votar la enmienda a la enmienda. Los que esten conformes con la enmienda de la enmienda, que digan si. (Various Sres.Delegados: Si.) Los que no esten, que digan no. (Varios Delegados : N O.).

Se rechaza la enmiendn a la enmienda.

Ahora se va a votar la enmienda originnl. Los que esten conformes con la enmienda, que digan si. (Vrarios Delegados:Si) Los que no lo esten, que digan no. (Varios Sres. Delegados : NO)

se rechaza las enmiendas.

SUSPENSION DE LA SESION

EL PRESIDENTE. Se suspende la sesion hasta esta tarde a las 3:00 p. m., ni no ay ninguna objeccion. (No hubo objeccion.)

Eran las 12:00 m.

REANUDCION DE LA SESION

Se reanuda la sesion a las 4 :15 p. m.

EL PRESIDENTE. Se reanuda la sesion.

Lease otra enmienda.

SECRETARY:

Page 28, line 17 to 21, strike out the whole subsection and insrt in lue thereof the following :

"The expenditures to be proposed in the budget which the president shall submit to the National Assembly as provided in paragraph (L) of section 5 under Article VII hereof shall be limited to the ordinary operating expenses of the government as required by the laws enforced.

"When a bill appropirating any amountof money from any special fund created by virtue of paragrah (9) of Section 5 under Article VII is vetoed bythe President, the same shall become a law notwithstanding such veto, if, after reconsideration of the bill, two thirds, of the national Assembly shall agree to pay it.

MR. MARABUT.

Mr. President and gentleman of the convention : In the first place there is a clerical error in the first part of the amendment. Instead of the word "enforced " it should be in forced." The purpose of the first part of the amendment, Mr. President, is only to clarify the provision. This is connected with the provisions of paragraph one of section 5 under the legislative power. That provision of the draft was approved after an explanation or its authors to theeffect that the budget shall cover only ordinary operating expenses of the government. In order that that provision could be enforced in accordance with the intetion of the authors, it is necessa-

sary to clarify, it , and that is the reason why I have proposed that this entire paragraph, wich is no onger necessary because it is a duplication of the same provision under the legislative power, shold be replace with the new provision, which will clarify the provsion under the legislative power.

With regard to the second part, and will clarify also the provisions of paragraph 5 of wection 5 under the legislative power, which requires, in case of veto by the Chief Executive of an item in the appropriation bill on bill apropriating an amount which exceeds 10 per centum of the totla amount of the appropriation bill for the previous year, three-fourth of the votes of the national Assembly to over ride the veto. In the case of special funds, Mr. President, I do not beli3ve that the authors of that provision intended to apply it to the special funds, for example, port works fund. There may be a time when it will be necessary to apropriate the port works fund in an amount in excess of ten per centum of the total appropriation bil. Ther is no reason why to over ride the veto of the Chief executive it should require three-fourths of the votes of the National Assembly to consider a fund that is created specially for the construction of ports and for their maintenance. That fund cannot be spent for any other purpose.

Now, Mr. President, I will have no objection if these amendments will be referred to the committee on Style and with the corresponding provisions under the legislative power so that there will be noconflict in said provisions.

MR. VENTURA. Para una pregunta.....

That the words "appropriation of the Government " means operating expenses.

MR. RARABUT. That is the purpose of the amendment, gentleman from Ilocos Norte, as to define what is operating expenses, because, as had occasion to state before, there are time when operating expenses

are time when operating expenses of the Government, is interpreted so as to mean expenses that were not intended by the authors of this provision. In order to avoid misinterpretation and misunderstanding it would be better to clarify and to define what is operating expenses.

MR. VENTURA. The only difference between our proposed amendment that sect five are the words which you added, the words, "ordinaryoperating expenses," whereas in Section give, as we have already approved, the appropriation for the expenses of the Government means operating expenses.

MR. MARABUT. It is in the latter part of the first paragraph of my amendmnt, gentleman from Ilocos Norte which says: "Sahll be limited to the ordinary operating expenses of the government as required by the laws in force." That precludes the insertion.....

MR. VENTURA. No esta yo includa la enmienda propuesta por S. S. en la pgina 14 del proyecto de constitucion, article 5 que dice: "The national assembly etc.....

MR. MARABUT. There is in the latter part of the first paragraph of my amendment which limits the ordinary operating expenses bythe government as rqequired by the laws in force. Now, that willpreclude the insertion in the budget of no appropriations for special activities that are not required by law.

MR. VENTURA. Necessarily, as the interpretation of sbction 5, for exaple, the Assembly, will vote a certain amount for the reconstruction of the school building, well that is not for in ordinary operating expenses.

MR. MARABUT. Well, as I have stated before, there are times when the executive departments because whis has the same provisin as in the Jones Law, not still the officials of the Executivegovernment habe interpreted that to

include also special activites of the government. Whenever the funds permit the expenditure for these activities, there are times they incude items in the budget. Now, to avoid any misunderstanding in carrying out as to the purpose of this provision, as explained by the different paragraphs of section 5 I have propose d this amendment to the Executive power.

MR. VENTURA. As I understand the provisions of the Jones Law, the appropriation for the operation of government provided for in section5, was already approved, I think the term "appropriation" for the operation of government" which limits the meaning of the phrase "The ordinary operating expenses of the government," does not include the activities. In other words, that is a duplication of the provisions of Section 5 already approved by the Assembly.

MR. NARAEUT. As I have already stated, I have no objection that this amendment be referred to the committee on Style with instructions that is be made a part of the provision under the legislative power. Just to clarify this provision.....

THE PRESIDENT. What is it that the gentleman from Samar want that this amendment be referred to the committee on Style?

MR. BARAEUT. That this amendment be referred to the Committee on Style with instructions that the corresponding provisions in the legislative power be so revised as to carry into effect the intentions of the authors of this provisions

THE PRESIDENT. Does it simply the approval in principle of this amendment?

EL PRESIDENTE. Cual es la mocion del Delegado por Samar.

MR. NARAEUT. That this amendment be referredto the committee on Style

MR. PEREZ J. Will the gentleman yield to a question Mr. President.

THE PRESIDENT. The gentleman from Samar may yield if he so desires.

MR. RARABUT. Gladly, Mr. President.

MR. PEREZ J. The amendment fromxMx is out of order because it affects certain articles onLegislative Power which were already approved by this Assembly. It varies clearly the meaning of paragraph 5 and paragraph 9 of Section 5, in Article VII.

THE PRESIDENT. There is a section in the executive power or department referring to the submission of budget in paragraph 7, but the gentleman from Samar refers to veto power of the President.

MR. RARABUT. Mr. President, if I have submitted this amendment it is because that under the Executive Department there is a paragraph which deals with the submission of the budget by the President, and that means that financial operation of the government.

EL PRESIDENTE. La Mesa va a someter la mocion del Delegado por Samar; que la Asamblea emita su opinion.

SOTTO F.

SR.MXXXXXXXXXX Tiene dos partes la enmienda Marabut. Una que se refiere a la relacion de gastos que, segun el, debe contener el budget; y otra que se refiere a una forma especial de pasar por encima del veto. El segundo parafo de su enmienda dispone una forma especial de pasar sobre el veto del Presidente.

EL PRESIDENTE. Va a someter la Mesa a votacion separadamente las dos enmiendas Marvat.

MR. CUADERNO. Mr. President, I think the Legislature, under the amendment, could pass a law by stating only the salaries.

THE PRESIDENT. Does the gentleman from Bataan want to

speak in favor of the amendment?

MR. CUADERNO. I am willing to speak, Mr. President.

MR. MARABUT. Mr. President, if I will be allowed to say my amendment is only to provide for the operating expenses of the government to carry out the purpose of the laws in force. That one refers to salaries, as the gentleman from Bataan says.

EL PRESIDENTE. Lo que debe hacerse es referir al Comite de estilo. Si se encuentra que se refiere a algo que ya esta aprobado, que no se tomara ya en cuenta; y si hay algo en contradicción desde luego, se rechazara, y en caso contrario, puede ser incorporada. De manera que la primera enmienda se referira al Comite de estilo. En cuanto a la segunda parte.

SR. SOTTO F. Es innecesaria la segunda parte de la enmienda. Como regla general, tenemos en el draft que para convertir en ley un bill vetado, hacen falta tres cuartas partes.

MR. MARABUT. Mr. President, under the draft as approved if a bill appropriate an amount in excess of ten per cent of the total appropriated in the Appropriation Bill, in order to over rate the veto, it would require three fourths votes of the members of the National Assembly. That is why to avoid, in case of appropriatin whichaffects only the special fund, the intention of the authors ofthe provisions under paragraph 5 in Section 5, under Legislative Power, was only for the general fund of government so as to avoid the excessive appropriation from the general fund, they put this limitation. Now in case of special funds created for special purpose, like the port works funds as well as other funds of government, this fund was created purposely for the exclusive use in the construction and maintenance of ports. That fund can not be used for any prpose. If we apply that provision, paragraph 5, in section 5, under Legislative Power, which requires three-fourths of the members of the Nati

National Assembly to over-veto the President, that means even if the National Assembly approves a bill appropriating the amount from the port works funds, if it exceeds ten per cent of the total amount of the Appropriation Bill for the preceding year, that means if the President vetoes that bill in order that the National Assembly can over-ride the veto of the President, it is necessary to secure three-fourths of the votes of the members of the National Assembly. I do not believe, Mr. Presidet, that that is necessary.

MR. SANIDOVAL. Mr. President, this amendment refers to the legislative sanction, Since we have approved it already, the amendment is out of order.

THE PRESIDENT. This refers to the submission of the budget by the President. This can be properly submitted to the Committee on Style.

MR. SANIDOVAL But this amendment is already referred to the Committee on Style.

THE PRESIDENT. The Committee on Style can rearrange this amendment.

LA SEGUNDA PARTE DE LA ENMIENDA NARABUT ES RECHAZADA

EL PRESIDENTE. Se va a votar la segunda parte de la enmiendaNarabut. Los que esteven favor de la misma, que digan si. (Varios Delegados: Si) Los que lo esten, que digan no. Varios Delegados: No.) Division

Los que esten conformes con la enmienda, tengan la bondad de ponerse de pie. (36 Delegados se levantan) Los que esten en contra que hagan lo propio. (44 Delegados selevantan) Se rechaza la enmienda.

MR. SANTOS. Mr. President : There is an amendment to section 3 en page 27, line 21, this amendment, Mr. President, was presented out of time,but I think it is important and I would like to have it discussed.

MR. PRESIDENT. Th

MR. PRESIDENT. That will depend upon the assembly. I will submit it.

Esta es una enmienda del Delegado por Nueva Ecija, Sr. Santos de enmienda.

MR. ABELLA. Sr. Presidente, pido que se lea la enmienda.

MR. SANTOS. On page 27, line 21, the Amendment is proposed by Delegates Santos, Bueno and Alvero, and it is to the effect that on page 27 of the draft, line 21, after the word "organizations" insert the following : " Provided however, that the heads of the executive departments and Bureaus unless sooner removed by the President for good cause shall hold office for three years."

EL PRESIDENTE. El fondo de la enmienda consisteen limitar a tres años la duracion del cargo de los secretarios de departamento de tal manera de que se haga coincidir la duracion de un cargo al termino de la Legislatura. Is that correct Delegate from Nueva Ecija.

MR. SANTOS. If the convention will be good enough I would like to explain in brief the object of this amendment. The object of this amendment is very clear. We have adopted in principle the idea that the Chief Executive or President of the Republic will hold office fornix years. The National Assembly will hold office for threeyears. At the same time there is a clear provision in our draft that the appointment of Department heads and Bureau directors shall be subject tothe confirmation of the National Assembly. If it is so happens, Gentlemen of theconvention, that the succeeding National Assembly is of a differentparty, or even though it may not be of different party, if the departments heads do not enjoy theconfidence of, or are persons not greta to, the national Assembly;n that case there will be conflicts between the executive and the legislative powers. The object therefore is to secure harmony between the two branches. Whether the second National Assembly will be of thesame party or not

on the President, there is need, I believe, of submitting once more to the power of confirmation that appointment of the executive heads and bureu directors.

SR. GUZMAN (ANTONIO). Sr. President, para algunas preguntas al orador.

EL PRESIDENTE. El orador, puede contestar si le place.

SR. SANTOS. Si, señor.

SR. GUZMAN . (A). La teoria de S. S. es que, probablemente un secretario departamental puede durar seis años en su puesto, mientras que los miembros de la Asamblea Nacional no tiene mas que tres años, y S. S. se basa en que la Asamblea Nacional puede perder en cualquier momento su confianza al secretario departamental. Yo entiendo que cuando la Asamblea Nacional ha perdido su confianza en alguna secretario de departamento, el mismo debe dimitir.

MR. SANTOS. There is no law whatsoever to my knowledge which will oblige the resignation or removal of a department secretary even though he has lost the confidence of the National Assembly.

MR. GUZMAN. A. Necesariamente S. S. comprendera que un secretario hacia quien la Asamblea Nacional no tiene ya confianza necesariamente tiene quedimitir, porque no debe continuar en el cargo.

SR. SANTOS. (E) Not necessarily.

SR. PEREZ T. It it not true

SR. SANTOS. E. That is true

SR. DIAZ. In the government.

MR. SANTOS. That is true, but I believe that it is necessary so as to make the matter clear enough in our constitution and we should be guided by this constitution.

MR. PEREZ. T. Will the gentleman yield? Is it not true that we have approved to adopt in prijciple the presidential form of government in this country ?

MR. SANTOS. Yes.

MR. PEREZ T. Is it not true that the essence of the presidential form of government is that department heads should not be entirely responsible to the legislative department but responsible directly to the Chief Executive to whom the these Department heads owe their appointment?

MR. SANTOS. That is true, but I still believe that there is no reason to the appointment when our draft provides that appointments to executive heads and bureu directors are subject to the confirmation of the National Assembly which carries with it the idea that no National Assembly shall ever by deprived of that power to confirm said appointments. It does not believe conflict with theidea that executive heads and directors should enjoy the confidence of the president; but as a matter of asserting theright of the National Assembly to confirm appoint,ents I believe that his is necessary.

MR. DIKIT. In the government which we are trying to establish the President is the official responsible for the executive branch of the government, is it not true ?

MR. SANTOS. That is true.

MR. DIKIT. Thesfore, if the secretary of departments do not enjoy the confidence of the National Assembly, that meansthen that the Chief Executive necessarily is the one who not enjoy the confidence of the National Assembly, and he is the one who should resign, according to your theory.

MR. SANTOS. Will you please repeat the question ?

MR. DIKIT. If we admit your theory that the President of the Nation is the head of the executive branch of the government, he is therefore responsible to the National Assembly. Now, if departmentsecretaries do not enjoy the confidence of the National Assembly, it follows that the President himself does notenjoy the confidence of the National Assembly, therefore he is the one who should resign and not the secretaries.

MR. SANTOS. Supposing that the second National Assembly elected is of a different party, naturally there will be a conflict, and the object of the amendment is precisely to avoid such misunderstanding and conflict between the executive and legislative powers.

MR. DIKIT. There will the confict lie, between the national Assembly and the secretares of between the President and the national Assembly?

MR. SANTOS. In actual practice we see very often that department secretaries have caused misunderstanding between the executive and legislative poers and in order to avoid that believe that their appointments should be confirmed every three years.

MR. DIKIT. Do you mean to say that the Executive Department, or he Secretaires of Departments, have direct-dealings with the National Assembly ?

MR. SANTOS. Even though they do not have direct dealings, and remembering that there is a provision in our draft in which department secretaires may appear in the National Assembly, there will be constant source of conflict. There is a povision in our draft to that effect, that the Cabinetmembers may appear in the National Assembly.

MR. DIKIT. Well, therefore, that is discretionary not mandatory. Therefore, if there is a conflict between the executive Departments or secretaires of Departments and the National Assembly, the Secretaries may appear, or may not, as the see fit, and it is the President who is responsible for the maintenance of harmony between the Executive Departments andthe National Assembly, and you theory is that if disharmony arises, the President is the one who should resign, because if he resigns automatically the Department Secretaries will have to resign

resign. If the President resigns, the subordinates will resign.

MR. BUENO. Mr. President, will the gentleman yield ?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. SANTOS. Willingly.

MR. BUENO. Is there any possibility for the President to resign because of non-confidence ?

MR. SANTOS. I do not think there is any such possibility because his term is for six years.

MR. BUENO. Is it not a fact the he is only accountable to the people who elected him ?

MR. SANTOS. That is exactly true.

MR. BUENO. Is it not a fact that the amendment under discussion would certainly irn out any difference that may exist between the two determining branches of the government--the executive and the legislative ?

MR. SANTOS. That is the purpose of the amendment.

MR. BUENO. Is there any possibility of the re-appointment of the Cabinet members after the third year ?

MR. SANTOS. I think so; there is always tat possibility of re-appointment.

MR. BUENO. And in case any Cabinet member is a persona non grata to the National Assembly, don't you thinkthat this amendment would remedy the situation in the conflict between the different buranches of the government?

MR. SANTOS. That is precisely the purpose, to avoid persons non grata.

EL PRESIDENTE. ?Que dice el comite ?

SR. SOTTO (F.). El comite no acepta la enmienda.

SR. Presidente, siente mucho el Comite no poder aceptar la enmienda, por las razonns siguientes : Vamos a comenzar por dividir la enmienda en dos partes : Una, la que se refiere a los

refiere a los Secretarios Departamentales, y otra, la que se refiere a los jefes de Buros u officinas. Refiriéndome por ahora a la cuestion de los Secretarios Departamentales, parece claro que siendo por seis años el ejecicio del Presidente, y siendo los Secretarios Departamentales directamente responsables ante el Jefe Ejecutivo, y personal de su confianza, escogido por el, parece mas justo no fijar ningun plazo pas la duracion de estos cargos, porque en todo momento estos secretarios Departamentales dependeran de la confianza que tenga en ellos el jefe Ejecutivo.

Vamos ahora al otro lado, al lado de la Asamblea Nacional. Los secretarios Departamentales puede comparecer por si, o ser llamados por cualquier asunto publico, a excepcion de los que contan en nuestra constitucion. En una de esas comparecencias, un secretario Departamental que hay perdido la confianza o la simpatia, o como quiera llamarse de la Asamblea Nacional, tenemos que suponer que sun Secretario Departamental que reciba una censura mas o menos fuerte de parte de la Asamblea Nacional en plena sesion, tenemos que suponer repito que ese secretario estara presentando su dimision ante al presidente. Ademas, fijando un limite de tres años, parece que indica que a menos que existan causas muy fuertes, al jefe Ejecutivo no deberia exigir la dimision de un secretario Departamental antes de dicho tiempo. Es mejor en este caso, si tenemos confianza en el futuro Jefe Ejecutivo de la mancomunidad, y mas tarde de la Republica, lo mejor repito es dejar este asunto completamente a la discrecion del Jefe Ejecutivo, o sea la cuestion de retirar o mantener su confianza en los secretarios Departamentales, de acuerdo con la politica de la Asamblea Nacional. Hay una cosa, Sr. Presidente, que esta clavada, atornillada en nuestramentalidad, que dificilmente podemos desprendernos de ella, y es la idea simple de un Jefe Ejecutivo en conflicto constante con la Asamblea Nacional.

nacional, con la representacion del pueblo. Esto no ha pasado todavia a la historia, puesto que lo tenemos ahora mismo sobre nuestos hombros. Pero me atrevo a decir que pronto pasara a historiak cuando nuestros Jefes Ejecutivos sean elegidos por el pueblo directamente; cuando tengan int ma trabazon con la Asamblea Nacional, en una palabra cuando el Gobierno Filipino, por medio de sus tres ramos sea un todo homogno para servir los mejores intereses de nuestro pais.

En cuanto a los Jefes de Buros, mas claro aun resulta lo peligroso que es esta enmienda. Los Jefes de Buros viuen a ser empleados tecincos; no deben ser penoes de la politica. Su eficiencia esta inmediatamente supervisada por el jefe de Departamento correspondiente. El jefe de Departamento responde sante el Gobernador General. Si pusieramos ahora un limite de tres años, o sea, haciendo coincidir la duracion del ejercicio de un Jefe de Buro a la misma eleccion que cada tres años se a a verificar por parte de la Asamblea, evidentemente habremos convertido a los Jefes de Buros en juguetes politicos, y greee que esto no es conveniente.

Por estas razones, Mr. Presidente, con gran sentimiento tenemos que pedir a la convencion que no apruebe dicha enmienda.

MR. SANTOS. Mr. President, will the gatleman yield?

EL PRESIDENTE. El orador puede contestar, si le place.

SR. SOTTO. Si, setr.

Mr. SANTOS. Supposing that a Department Secretary has lost the confidence of the National Assembly, what remedy do we have to force him to resign?

SR. SOTTO. (F.). Ya he indicado antes que un Secretario

Departamental no solo puede comparecer, sino que puede ser llamado, y si existen realmente bus os motivos pue que un Jefe Departamental pierda la confianza de la Asamblea. el Jefe Ejecutivo que no se extrañe a la Asamblea Nacional. presumir que otra con mayor preferencia las razones de la Asamblea Nacional,y no a cualquier patrocinio suyo en favor del Secretario Departamental.

MR. SANTOS. But in spite of that,there is no legal remedy to force to resign.

SR. SOTTO (F.). Hay remidios que no son legales. Tenemos que suponer, vuelvo a repetir, que un secretario Departamental, con perdon de la crudeza de la frase, no es un sinvergüenza que ha a aguantar la antipatia de la Asamblea cuando esa antipatia esta bien fundada.

MR. CASAÑAS GUIS. Mr. President, will the gentleman yield?

EL PRESIDENTE. El orador puede contestar, si le place.

SR. SOTTO (F.). Si, señor.

MR. CASAÑAS GUIS? Does Delegate Sotto remember the case of Director Cruz?

SR. SOTTO (F.). No quiero hablar de ese asunto ahora. No recuerdo ese asunto, entreotras razones, porque esta pendiente.

MR. CASAÑAS GUIS. I understand Director Cruz does not like to resign in spite of the Governor- General 's Attitude for him to resign.

SR. SOTTO (F.). S. S. sabe mas que yo sobre eso. Yo no es nada.

EL PRESIDENTE. ¿Puede votarse la enmienda.

EL PRESIDENTE. Los que esten conformes con la enmienda. tengan la bondad de decir si. (Una minoria : si) Los que esten en contra, sirvanse decire no. (Una mayoria : No.) Rechazada.

MR. IRETING. Mr. President, we have an amendment on page 29, which we have subsequently corrected. I move that the Secretary will read the corrected copy.

EL SECRETARIO, leyendo

ENMIENDA IRETING Y OTROS

Page 29, lines 20 and 21, and page 30, line 1, strike out the words "intervent directly or indirectly in the management on control of any" and insert in lieu therefo the following: "directly or indirectly the financially interested in."

MR. IRETING. Delegate Abordo will explain our amendment, Mr. President.

SR. CORTES. El comite no acepta la enmienda.

SR. ABELLA. Señor Presidente, tenemos una enmienda de la misma naturaleza.

EL PRESIDENTE. Exactamente igual?

SR. ABELLA. Es mas general y comprensivo. Yo quisiera saber si despues de aprobada la enmienda del Delegado Abordo se puede tambien discutir esta enmienda.

EL PRESIDENTE. Si son diferente, las podemos discutir.

SR. ABELLA. Son diferentes.

SR. PRESIDENTE. Tiene la palabra el Delegado por Palawan.

MR. ABORDO. Mr. President and gentleman of the convention: With this amendment we shall be doing away with the practice of some heads of the executive department of the Government laying hands on their private and personal enterprises. Not only this, but when a department head acts already as such, that person directlyor indirectly is interested in any private enterprises, thereby by not devoting his whole time in the interest of the country.

I am of the opinion, Mr. President and gentleman of the convention, that once a person is entrusted with the po

position of responsibility, in the Government,he shall in all earnestness and fidelity dedicate his whole time in fooming the program f his department. It is for this reason, Mr. President, that we want that once a department hed is already in, he should not indiuge in private enterprises so that he shall be free in the discharge of his official duties.

It is for this reason, Mr. President and gentlemen of the convention, that we submit this mendment so that we shall be remedying an anomaly by prohibiting any members of the e xecutive department to be interested directly or indirectly in any private enterprises, while in the discharge of official duties. This amendment, Mr. President, refers only to those private enterprises which may affect the functions of their respective departments. For this reason, Mr. President, we submit this amendment for the consideration of the assembly.

THE PRESIDENT. The time of the gentleman has expired.

EL PRESIDENTE. Que dice el subcomite ?

SR. SOTTO (F.) Señor President, el comite esta vez siente no poder concurrir con los autores de la enmienda. El draft ya prohibe que los jefes de departamento y sus subordinate o asistante puedan tener el manejo o control de empresasprivadas que tengan relacion con su oficina, durante el tiempo en que dicho jefes de departamento y jefes de oficina esten desempeñando el cargo. La enmienda prohibe, no solamente que manejen o dirijan empresas, s no tambien que tengan interes directo o indirecto. La primera cuestion practica que se presenta es la siguiente: tener interes directo o indirecto en una empresaprivada. Quiere esto decir, señores, que un Secretario Departamental, por ejemplo, no pueda ser un simple accionista de un compañia privada?

Quiere decir este que antes de aceptar una persona un cargo departamental o la direccion de una officina del gobierno o jefe de buro, ha de tener que desprenderse, inclusiva en bagatillo, de toda participacionque tenga en empresas privadas ? Q ?Quiere esto decir que los candiatos mas probables para esos puestos sean aquellos personas que no tengan interes alguno en nign empres privad? Sin ceramente creo, señor presidente, que los limitaciones consignades en el draft, como las que se refieren al manejo y entrol de esas empresas, son bastante, Si se mero accionista no debe incapacitarles a uno pare ejercer un cargo en el gobieno.

SR. INTING. Pasa pluuna preguntas al orador.

EL PRESIDENTE. Puede contestr, si le place.

SR. SOTTO (F.) Si, señor.

SR. INTING. ?No creo S. S.que habria anomalia en el desempeño del cago, por ejemplo, de un secretario departamental que tiene intereses en un comercio o negocio en el sentido de que puede favoecer a esas empresas ?

SR. SOTTO (F.) Para que nos entendamos mejor, yo le rogaia que me di uncaso practico.

SR. INTING. Por ejemplo, un director del buro de comercio es accionista en una compania de minas; otro ejemplo, un secretario de Hacienda que tenga interes en una casa de seguro, en este caso puede fararecera esa casa.

SR. SOTTO (F) En primer lugar he de decir a S. S. que en todas partes en la tierra el exito de una administracion o de un gobierni debe dividirse en dos medias partes; cincuenta por cienyo para las leyes escritas y cincuenta por ciento en las personas que desempeñan ese cargo y despues de esto voy a decirle, ademas, qe de todos modos, si no tenemos personas honestaas eel gobierno, cualquiera limitacion puede ser facilmente violada. En segundo lugar, esas personas deshonestas, esas personas que quieren valerse de su cargo para favorecera determinadas empresas, esas no estan

no estan trabajando solas en el gobierno, hay cien ojos que estan vigilan y à mejor prueba es que las personas que han infringiá esas reglas de etica, parece que han caido.

SR. LIM. Para algunas preguntas al orador.

EL PRESIDENTE. El orador puede contestar, si le place.

SR. SOTTO F.). Si, señor.

SR. LIM. S.S. ha pedido un ejemplo practico; le voy a dar un ejemplo.

SR. SOTTO (F.). Si, pero no lo he pedido a S. S/ sino al caballero que me ha estado interprelando.

SR. LIM. Si, pero yo voy a darle otro ejemplo, Supongamos que un secretario diganos de Comercio y comunicaciones sea el tiemp de su nombramiento como secretario, directo y accionistade una compeña minera.

SR. SOTTO (F.). Ese ejemplo ya esta bajo las limitaciones del draft, porque si es director tiene participacion en el manejo de un empresa; ya tiene interes directo o indirecto.

SR. LIM. No he terminado todavia. Y luego la corporacion minera de la cual este secretario es accionista principal tiene lios en otra corporacion que este desgraciamente lejos del gobierno. En la solucion del conflicto se llaman autridades del buro de ciencias que es la entidd llamado a resolver sobre minas. En vista del hecho de que el Secretario tiene intereses myygrandes en la corporacion minera contra la cual se presenta la queja, los empleados del buro de ciencias han tratado de hacer en todo lo posible para que la queja de la corporacion no sea tratada debedamente. Este es el caso que presento a S. S. para que vean lo imposible que es tener un secretario que directa o indirectamente tentan en una empresa privada.

SR. SOTTO. (F.) Por lo visto, Caballero por Manila su ejemplo esta bajo las limitaciones; pero yo digo ademas; que es el propositor buscar es-profes a los pobres de solemnidad para darles cargo publico, la vida moderna esta compuesta de

cincuenta por ciento de vida material; esta compuesta de compañias en general, los hombres hoy dia estan haciendo inversiones en compañias, y bueno que impliquemos que una persona tiene autoridad en el manejo de una empresa, tiene influencia decisiva en una empresas para que no se le haga jefe del departamento.

EL SR. KAPUNAN. Bajo el Draft ?

SR. SOTTO (F.). Si, señor.

SR. KAPUNAN . Bien, suponiendo que puede estar sujeto al impeachment, cual seria el remedio ?

SR. SOTTO(F.). El remedio esta en primer lugar en el Presidente de la Mancomunidad que es el responsable de la eficiencia de ese secretario departamental y tambien en la Asamblea y en segundo lugar, esta la Asamblea Nacional para vocear las quejas del pueblo; esta el Jefe Executivo para oir las quejas, porquaya no tendremos Gobernador General que es Americano, porque estara ya desligado de nosotros.

SR. KAPUNAN. No es verdad que sera mejor prevenir las enfermedades antes que aparezcan para curarlas ?

SR. SOTTO (F.). Yo no tengo que a fuerza de tanto prevenir, Señor Presidente, vamos a morirnos de prevencion. Nos a pasar lo que aquel hombre que temeroso de ser afectado por la comida. Riego a no comer mas tarde.

SR. KAPUNAN. Para turno, en contra.

SR. SOTTO (F.) Le felicito por eso.

SR. ORENSE. En relacion con esta prohibicion contenida en la seccion 2 del articulo 13, supongase el siguiente caso : que el jefe del departamento tveira el cincuenta por ciento mas uno o sea mayoria de las acciones de una empresa, es decir que tuviera el cincuenta por ciento mas uno o sea mayoria de la acciones, controlando de esta manera la corporacion, No cree S. S. que esta a voluntad de este accionista que posee el cincuenta y un por ciento de las acciones de esa compania, el control tambien sobre la directiva y la gerencia que actua por la cor

por la corporacion y pede embari a su voluntad y capricho? de tal manera que en este caso este jefe departamental interviene si no direcá por indirectamente en la edministacion de esa empresa privada?

SR. SOTTO (F.) Este jefe de depatamento del ejemplo de S. S. no solamente interviene sino tiene control. Sabémos positivamente que la compañia se rige por el cumulo de acciones y S. S. hora saca un ejemplo del jefe departamental que tiene cincuenta y uno por ciento de las acciones. Ese jefe departamental ese bajo las limitaciones del draft de la constitucion.

SR. OSMEÑA. Muchas gracias.

MR. PERE. Mr. President, will the gentleman yield?

THE PRESIDENT. Then gentleman may yield, if he so desires.

MR. SOTTO. (f.) Si, señor.

MR. PEREZ (J.). Un that provision of paragraph 2 of section 13, cannot he Director of of Bureau of Animal Industry legally become a member of the Board of Directors of the corporation engaged in stock raising ?

MR. SOTTO. (F.) La cogera la prohivicion de la constitucion porque intervine en la direccion y manejo de una empresa privada que tiene relacion con su oficina.

MR. ISLIZA. Mr. President, for an information. On page 29, reglaced complet, I have an amendment of the same nature. I request that it be taken and voted at the same time.

THE PRESIDENT. You meante say that you make yours the amendment of Delegate Inting ?

MR. ISLIZA. That it be consolidated.

THE PRESIDENT. That is, if we adopt the amendment of Delegate Inting.

DISCURSO EN CONTRA DEL SR. RAPUANO.

SR. RAPUANO. Señor Presidente.

EL PRESIDENTE. Señor Delegado por Ayte.

SR. RAPUANO. Caballeros de la convencion : Cuando yo anuncio que yo iba a consumir un turno en contra, algunos se han reido creyendo que yo he cometido una equivocacion. No, señor. porque si yo abogo por la enmienda es porque no me gusta el draft cuando habla de los secretarios, en el draft,los secretarios estan sujetos del Impeachment y el Impeachment solamente se refiere al presidente al vicepresidente, a los magistrados y los jueces de la corte de apelaciones excluyendo a los secretarios, a los jueces de la primera instancia y a otros altos funcionos civiles. Si se les incluye a los secretarios al i peachment, yo abogaria por que no aya limitacion en cuanto al nombrado. si esta dentro del impeachment, al Gobernador tendra derecho a nombrar a cualquiera de su agrado, no importa al interes de la sociedad, porque entonces la espada de Damocles estra constantemente pendiente a su cabeza, de tal manera que jamas hara uso de influencia de su cargo para fomentar los intereses de la compañia a que pertenece. Y esta es una razon, porque no quiero decirles mucho, solamente quiero manifestarles mis puntos de vista, anunciandoles desde luego que no presentare la enmienda correspondiente cuando llegemos al capitulo del impeachment, en el sentido de que estan sujetos los secretarios, y entonces cuando esten sometidos al impeachment yo soy partidario de que no haya limitacion en cuanto a su nombramiento y en este sentido favorezco la partida.

EL PRESIDENTE. Se va a votar la enmienda.

Los que esten conformes con la enmienda, que digan si. (varios Sres. Delegados: si.) Los que no lo esten, que digan no. (Varios Sres. Delegados: no) Queda rechazada la enmienda .

VARIOS DELEGADOS. Division.

EL PRESIDENTE. Los que esten conforme con e enmienda, que se pongan de pie. (42 Diputados se ponen de pie.) Los que no lo esten, que se pongan de pie, tambien. (45 Delegados se ponen tambien de pie.)

Por cuarenta y dos afirmativos contra cincuenta y cinco votos negativos, se rechaza la enmienda.

Lease otra enmienda.

EL SECRETARIO.

EL. ABELLA. En page 29 of the draft, section 13, subsection 2, before the word "The" add the following : " The presiddnt and the Vice-President of the Philippines. " On page 30 at the end of line 2, add the following : "Neither shall they be directly or indirectly be financially interested in any contract with the Government or any instrumentality or division thereof."

SR. ABELLA. Señor Presidente, esta enmienda presentada por nosotros responde a una gran necesidad. Aqui hemos incluido al presidente y al vicepresidente del futuro gobierno de Filipinas. Como unos, veran al presidente y el vicepresidente siendo los cargos mas exaltados y mas importnes en el futuro gobierno en lo e que respecta a sus actividades ya sean oficiales o ya sean de otra manera. Con st enmienda nuestra proposicion quiere dar un remedio a esta situacion. Se debe tener en cuenta, ademas, que el impeachment previsto para los cargos de presidente y vicepresiddte no alcanza los casos previstos en nuestra enmienda. Nosotros, los porponentes de la enmienda, creemos que cuando se han impuesto ciertas limitaciones a los miembros de la asamblea nacional, a los jefes departamentales a los jefes de buro y otros jefes de oficina, no comprendemos por que razon no se han incluido aqui esta prohibiciones a los que ostentan cargos de mucha importancia y que llevan consigno grandes poderes en el gobierno, a fin a ellos no esten sometidos a ningun acto de critica o censura, porque son cargo

porque son cargos que estan bajo el departamento ejecutivo. Podria arguirse que estas dentro esta enmienda, por cuanto que estos cargos estaan ocupados por gente de gran responsibilidad, gente imbuesta de la importancia de sus cargos; pero los que ocuparan estos cargos, sin teniendo en cuenta la brillantes extraordinaria de sus inteligencias y de sus dotes morales, no se pasie asegurar que estos hombres no claudicaran en el desempaño de su deberes. No debemos olbidar que estos hombres vna a estar mengiados las rienda del gobierno por pacio de seis años, y recordando lo que ya se ha dicho de que no estan especificados aqui los casos de 2 impeachment, se podran comprobar los daños irreparables que podria regr lo que tratamos de corregir con esta enmienda.

Sr. Villarealde acuerdo con en teoria, S. S. incluyo, ha includil e su enmienda l vicepresidente, ? que podrs bajo el draft, tiene el vice-presidente.

Sr. ABELLA. Creo que eso se puede contestar de esta manera; el vicepresidente desempeñara el cargo depresidnte o desempeñara otro cargo que se le fije despes por la constitjcio. No estara bajo las provisiones de esta enmienda.

SR. VILLARAL. De manera que si el va a desempañar, por ejemplo, el cargo de secretario departamental, estara bjo las provisiones de esta enmienda, entonces.

SR. ABELLA. Creo que si.

SR. VILLARREAL. Entonces no es necesria su enmienda. Tendria usted la bondad de retirar esa enmienda ?

SR. ABELLA. Porque ?

SR. VILLARREAL. Si es esa la contestacion S. S.

SR. ABELLA. No comprendo la objecion del compañero. He dicho que esta enmienda no es general, se refire unicamente a los cargos de depatamento.

MR. VILLARREAL. Sr. admite que el vice presidente no tiene, de acuerdo con el draft, poer, ameos que se nombrados jefe de

brados jefe del depatamente, Ajora.....

SR. ABELLA. Naturalmente, si no desempeña el cargo.

SR. VILLARREAL. Ahora, nombrado jefe de departamente, S. S. debe tener en cuenta que no esta limitadok y ene ya bajo cierras rstricciones del jefe de departamentes; de mdo que la enmienda de s. s. no tiene por si base don respecto al vice-presidente.

SR. ABELLA. Creo que en ambos casos ene vbajo la provision de este enmienda.

SR. VILLARREAL. S. S. debe tener en cuneta que dos por dos en cuntro. S. S. sabe que el no tiene poder y al ser nombrado como jefe departamental , ene bajo las prohibiciones del jefe departamental.

SR. ABEA. Es un supuesto...

SR. VILLARREAL. Yo quiero llamr la atencion de S. S. de no que hay supuestos. Todos son hechos.

EL PRESIDENTE. ?Que dice el comite ?

SR. SOTTO (F.). Vamos a divédir la enmienda primea, la que se refire a la prohibicion al presidente y al tce-presidente. E. Comite invita a los autores de la enmiendaque retiren esta parte, porque debemos tener una idea tan elevada de ese hombreqe hasta parece injureintes para para el estons cortapisas.

SR ABELA. Precisamene, esa enmeánda se ha formulado. se ha presentado para esas garntiz, porque no tenemos ninguna grantia en contra de una claudicacion posile por parte del presidente o del vice-p esidente despues. La constitucion alemana tiene un disposicion parecida,porque es esencialmente buena.

EL PRESIDENTE. Que dice el comite ?

SR. SOTTO (F.) En lo referente a la segunda parte, elcomite no tiene inconveniente en décir que tiene simpatias con dicha segunda parte, por cuanto que no hace otra cosa mas que hacer extensiva a los jefes dedepartamente y

jefes de oficina aquella prohibicion quehemos dictado para los miembros de la Asambla Nacional de que no entren en contrato, con el gobierno. Si los autories retiran la primera parte, el comite acepta la enmienda.

SR. ABELLA. Voy a consultar con los co-autores de esta enmienda, porque no soy el unico autor de la misma. Con respecto a la primera parte, sometemos a la aprobacion de la Asamblea.

SR. MEPOJUCENO (R.) Propongo que se dividen en dos partes la enmienda.

LA PRIMERA PARTE DE LA ENMIENDA? ABELLA Y OTROS ES RECHAZADA

EL PRESIDENTE. La Mesa sometera a votacion por partes la enmienda. Se va a votar ahora la primera parte. Los que esten conformes con la misma, que digan si. (Una mayoria: No.- Los no lo esten, que digan si. (Una minoria: Si) . Se rechaza la primera parte de a enmienda.

LA SEGUNDA DE LA ENMIENDA ABELA Y OTROS ES APROBADA.

Los no esten conformes con la segunda parte, que digan si: (Una mayoria: si) Los que no lo esten, que digan no. (Una minoria: NO) Queda aprobada la segunda parte.

La siguiente enmienda ue la Mesa desea someter a a Asambla es la referente al puesto que se dbe dar al vice-Presidente. Hay muchas en miena sobre esta cuestion, y la Mesa propone que la Asamlea exprese su opinion sobre lo que aparece en el draft. Si no se sosteien, lo que aparece en del draft, podemos considerar las enmiendas

SR. CUENCO. Propongo que se apruebe el draft tal como esta.

MR. ABORDO. I want to speak agaist the draft.

PRESIDENTE. The delegate from Palawan has the floor.

MR. ABORDO. Mr. President and gentlemn of the convention: The draft as submitted to this convention fy consideration

sideration reads as follows: "The President may appoint the Vice-President as the members of his cabinetand he may also appoint as head of an executive department."

Under this draft, Mr. President, we find that the president may or maynot appoint the vicepresident if he doesnot like ti. What we want Mr. President, is that inasmuch as we have already created the position of vice-president the man who should hold that position should be given a responsible position in the government. We must not only depend on the fact that the vice-president shall sit for thetime who he shall s e sting as president. The mrere fact that he shal succeed the presidet during his tempraray incapacity or otherwise does not necessrily mean the importance of the position of vice-president in our draft of our constitution. We desire, Mr. President, that the vice president should be given a membership in the Cabinet of the President and this provision must be made mandatory in the draft of the constitution. As it is, Mr. President, in this draft of the constitution, it remains only to beat the discretion of the presidet to name the vice-president as member of the Cabinet or as head of an executive department.

SR. RAFFMAN. En caso de que el Vice Presidente pertenezca a otro partido, sería conveniento que se le diese un puesto en el gabinete?

MR. ARCHDO. For me it does not matter whether the vice president belongs to the party. Inasmuch as he is elected throughout the countryhe represents the people and his voice should be heard in the Cabinet.

MR. ACHARRCOUIS. Will not the principle of party government be destroyed by having a member who does not belong to the party.

MR. ARCHDO. The mere fact that thepresident belongs to anothor party does not necessarioy mean that we spoil the party syetem for the reason that the vice-president

once he is elected by the people of the Philippine Islands or the qualified electors thereon, that simply mean that the vice-president has the backing of the entire nation. Why deprive the vice-president of the right to represent the nation when he si just as well a rpresentative of the people like the president?

Because of the foregoing reasons, Mr. President, we are opposed to the approval of the provision as it appears in the draft. The amendentwill be presented in due time because what is considered in this constitution is whether the convention should go on record as aproving the draft as it is or we want the vice-president to hold a responsible position in the government taking into account the fact that he is a genuine representative of the people.

SR. CUENCO. Sr. Presidente, se trata de una cuestion que al parecer carece de importancia, pero que en realidad envuelve un asunto de gran trascendencia para el pais. Se ha propuesto que el vicepresidente sea de una manera imperativa miembro del gabinete. Esto destroye sunncialmente el sistema de gobieno que nosotros hemos implantado en virtud del draft cuya parte principal ya hemos aprobado. De acuerdo con el sistema presidential que nosotros hemos adoptado, el secretario departamental no es responsable ante el pueblo ni ante la legislatura; responde ante el presidente. El tiene que ser un funcinario de la excesiva confianza del presidente, porque el presidente es el que dirige el rumbo de la politica de la nacion. Si properar la proposicion de que de una manera imperativa el vice presidente fuera miembro del gabinte, si ese vice pesinte pertenecee al partido opuesto al del presidente, ese vice presidente, desempeñando un puesto en el gabiente, podria, hacer fracasar por completo la administracion del presidente.

SR. LAUREL. Sr. Presidente, pra algunas preguntas al orador.

E

EL PRESIDENTE. El orador puede contestar si le place.

SR. LAPAK. Admitiendo, como S. W. dice, de que el vice presidente pertenece al partido adverso al del Presidente y formando parte del gabinete, cree S. S. que la opinion de un solo miembro puede prevalecer sobre las dmas ?

SR. CUENCO. El secretario Departamental no emite ninguna opinion, desempaña funciones ejecutivo el traza la politica, hace cmplir todo lo que se refiere al departamento que se le encomiende.

SR. LAPAK. No es verdad de que, segun las disposiciones que hemos aprobado, el vice presidente, actuara el lugar dàl presidente, en caso de ausencia o inhabilitacion temprel del precident?

SR. CUENCO. Temporal.

SR. LAPAK. O en caso de ausencia permanente, no actuara el presidente?

SR. CUENCO. En ese caso no habria ninguna conflicto. porque el vice presidente, como presidente, emplantara su politica propia; no habria dos hombres que lucharia dentroro del gabiente.

SR. LAPAK. Creo que no.

SR. CUENCO. Como no? Vamos a suponer el secretario de Hacienda. El Secretario de Hacienda puede tener ideas distintas de las del presidente; y si el secretario de haciendo va a se un enemigo del presidente, ese secretario de hacienda, en vez de contribuir con todas las luces de su inteligencia para que la daministracion dèpresidente sea un exito, lo que haia es obstruir para que la administracion resulte un completo y total fracaso.

SR. ORTEGA. Sr. Presidente, para algunas preguntas al orador.

EL PRESIDENTE. El sador puede contestar, si le place.

SR. CUENCO. Si, señor

SR. ORTEGA.

SR. CUENCO. Si, señor.

SR. ORTEGA. Cree s. s. de un presidente de partido nombraria como vice presidentes un secretario de hacienda ?

SR. CUENCO PERO ES IMPERATIVO.

SR. ORTEGA. Pero en la enmienda no se dice " secretario de justicia;" de manera que cualquier secretario.

SR. ORTEGA. Pero el ejemplo de s. s. es secretario de hacienda.

SR.CUENCO. Es una suposicion.

MR. SANDOVAL. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Cebu may yield if he so desires.

MR. CUENCO. Con mucho gusto. señor Presidente.

MR.SANDOVAL. Is it not true that when your amendment for the suppresion of the position of vice- President was voted down by the assembly, it was precisely because those who argued against your amendment said that the vice-President shall be made a member of the cbinet in order to give him a job under the constitution?

MR. SANDOVAL. Bud does your honor not aware that according to the amendment proposed tht the Vice-President will be given a cabinet position without fortfolio because according to the draft, it says: "The President may appoint the vice-President as a member of his cabinet qd he may also appoint himas a head of an executive department, " so that making the amendment mandatory on the first part, the vice-President will be a member of the Cabinet without fortfolio because the latter part of the draft gives the president the discretion to appoint the vice- President asa member of the cabinet or not.

SR. CUENCO. Es cuestion de dar ;job a nadie. La cuestion a dilucidar es si, el acurdo con los principios de una sana administracion, el vice presidente ip so facto,

y

y por el mero hecho de dar ocupacion a medio. Lo que debe decirse es si es justo que el vice presidente, que pertenece al partido opuesto, sea miembro del gabinete del presidente, teniendo en cuenta que el responsable del gobierno que se implante es el presidente, y todos y cada uno de los secretarios departamentales, de acuerdo con el sistema presidential, son responsables ante el presidente y no ante el pueblo. Eso es la cuestion que debe dilucidarse.

SR. CUENCO. Entonces, pregunto yo : que va a hacer ? El S. dijo antes de que es necesario darle trbajo al vice Presidente. Ahora, que va a hacer el vice presidente como miembro del gbinete, si no va a tener cartera ? Una secretaria? que va a hacer alli ?

SR. SANTOVAL. Un miembro del gabinete, puede ser miembro sin cartera, segun el draft.

SR. CUENCO. No, señor.

SR. SEDOVAL. Si; hay que leer el draft.

SUSPENSION DE LA SESION

EL PRESIDENTE. Se suspende la sesion por algunos minutos.

MR. GARARROGUIS. Mr. President, I move that the consideration of sub-section 3, section 13, should take place tomorrow.

SR. LIM. Señor Presidente, quiero hablar en contra.

EL SR. PRESIDENTE? Hay objecion a que no considere esta enmienda? (Silencio) La Mesa no oye ninguna. Queda aprobada.

Lease otra enmienda.

EL SECRETARIO. Hr Delegate Ventura. En la pagina 29, al final de la linea 6, anadase lo siguiente, " He shall also have the power to grant amnesty."

EL SR. RAFOLS. Tengo una enmienda en la misma pagina que debe ser anterior a esa enmienda y pido que se lea.

EL PRESIDENTE. Lease.

EL SECRETARIO. En la paigna 29 A, linea 7, insertese lo siguiente: "Entendiendose, sin embargo, que en casos de malversacion de fojdos publicos, ningun indulto sera concedido , a menos que la cantidad malversada fuese previamente reintegrada."

EL PRESIDENTE. Tiene la palabra el Caballero por Ilocos.

MR. VENTURA. Mr. President, I think the amendment of Delegate R"fols. does not refer to my amendment because this erfers only to amnesty. It should be an amendment to other paragraph.

(Continuing). Mr. President and gentleman of the Convention: You will notice that paragraph 8 of the draft reads as follows: " The President shall have the power to gran supreives, commutation and pardons, and remit f nes and forfeitures, after conv iction, for all offenses except in cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper to impose." Our objection, gentleman of the convention, as directed against thephrase "after conviction, " and for this reason, the committe accpted our amendment to be placed after the word "impose, " that is after the last line. For this reason, if we adopt paragraph 8 of the draft without this amendment, the President of the national shall not be able to grant amnesty to a class of people or community or to those who have been tuilty of political offenses. For this reason, the prhase "after convictionW requires that the president of the nation can grante pardons, the persons guilty of those offenses enumerated in paragreph 8should first be conv icted.

Amnesty, gentleman, of the convention, is a grant or a gaant of grace by the Chief Executive of the nation; and it presupposes that there is no prosecution for any offense commited by those who should habe ben otherwise prosecuted. So that if we do not put this amendemtn, the

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President of the nation cannot grant amnesty without first convicting toss who are guilty of sedition or of any political offense. That would be inconsistent with the very essence of the word "amnesty" or the very purpose of amnesty, because the president grns amnesty for political offenders before they are prosecuted. That is the very nature of amnesty.

We place the amendment after the word " impose " and not insert it after the word "pardons" for the reason that word "pardons " here in the line 2 is generic in sense. It includes amnesty. That is decided by the supreme Court of the United S tates that the word "pardon" includes amnesty and so it is vayy necessayy to place the amendment after the word "impose" or after the end of the prograph.

The express mention of amnesty after the end of the paragraph will exlude amnesty from the phrase of fromthe ffect of the phrase "after conviction" in line 3.

MIXEX MR. PEREZ. Will the gentleman yield to a question? Cold not your objective be attained by striking out the phrase "after conviction?"

MR. VENTURA. No, precisely the commitee of seven is opposed to the idea of striking at the phrase aftr conviction as I intended this morning because there is really this good reason. The chief executive of the nation even before the accused has been convicted or prosecuted, the chief executive may pardon the guilty party. That happend in the case of Mc Coy during the administration of Governor Forbes when he pardoned even before Mc Coy was sent to jail and that is the very thing that the committee would like to preserve.

MR. PEREZ (J.) Do you think that there are cases where a pardon of the executive is necessary even fore the conviction?

MR. VENTURA. Why, certainly. That is why there are cases. I have cited to you the case of Mc Coy. He was pardoned before he was commited to jail. There are cases wh where the chief executive of the nation pardons an nation that is being prosecuted even if he is convicted.

MR. PEREZ Therefore don't you think that it would be more appropreite to strike out the phrase after conviction because there are cases?

MR. VENTURA. Please notice the inconsistency of that. The word pardon includes amnesty. If you erase after conviction that will include amnesty and in that case you will have to prosecute all person who are guilty of political offences before they can be pardoned. That is an inconsistency the very essential word amnesty, because amnesty is given by the chief executive of the nation before person are prosecuted.

MR. PEREZ. Yes, if we strike out the phrase after conviction in such case amnesty may be granted before prosecution; that is precisely the provision of the federal Constitution.

MR. VENTURA. I see your point. But the Committee of Sev Seven is not in favor of striking our that phrase because of the objection I have given to you. The Chief Executive may pardon a person altho he has not yet been convicted at the time he is being prosecuted and that would be hightly improper.

MR. PEREZ. But there are cases where a grant of pardon is necessary even before conviction?

MR. VENTURA. I did not mean that it is necessary. I said the chief executive may. he shall also have the power to grant amnesty, after the word imposed at the end of the paragraph.

MR. ENRIQUEZ. No es verdad que la amnestía tiene lugar

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cuando se registra o estalla una revolucion o una guerra civil en un pueblo?

SR. VENTURA. Si, despues de una guerra civil.

SR. ENRIQUEZ. De modo que durante ese estado caotico en que se ve o se encuentra el pueblo, el jefe ejecutivo de la nacion suspende las garantias constitucionales, no es asi?

SR. VENTURA. No, no se refiere a ese periodo, a esa epoca de la nacion. S. S. sabe que el ejecutivo de la nacion siempre ejerce ese poder o esa facultad cuando ya esta casi terminada la guerra civil, o la sedicion para borrar, como significa la palabra amnestia, para borrar, repito, todos los rencores qe que ha habido entre la administracion y aquel de gente que se haya sublevado.

SR. ENRIQUEZ. Mi duda es que he leido varias constituciones y no he tropesado con ninguna disposicion que hable precisamente de amnestia.

SR. VENTURA. Precisamente, en los Estados Unidos es poder inherente del presidente de los mismos el conceder amnestia, como paso el 4 de Julio de 1902, cuando el presidente Roosvelt concedido amnestia a los filipinos que han comtido ofensas politicas o sedicion.

SR. ENRIQUEZ. Lo qe queria decir era que son sin constar en la constitucion de un pais, se ha observdo ya enla przctica qe sin esa consignacion o ese provision en ka constitucion, el jefe ejcutivo del estado podia perdonar.

SR. VENTURA. Precisamente, debemos poner esto, porque enpractica en Anglaterra, Italiay Estado Unidos conferir esen facultad ap presidente o al jefe ejecutivo, porque en otras naciones se reserva esa facultad a la asamblea o a la legislatura, como lo tiene en Turquia, que solamente la Asamblea Nacional en Turquia tiene su facultad deconceder amnistia, y otros paises tambien, como alemania.

Per esas razones, caballeros de la convencion, pido que se apruebe la enmienda, precisamente porque sta aceptada por el comite.

SR. KAPUNAN. Para una informacion. Cuando no se trata x x x amnistia, No puede el presidente ejercer el privilegio x x x x en a un acusado. antes de laconviccion ?

SR. VENTURA. EPuede es esta enmienda se concede al amnistia no se refiere al individuo o a un grupo de personas.

SR. KAPUNAN. Entendemos, pero mi pregunta es, si el Presidente puede haceruso del privilegio del perdon para personas despues de la conviccion.

SR. VENTURA. Pues, como ya he dicho, el presidnte, si se refiere a un individuo, puede indultar a un individuo aun antes de ser acusado y mucho de despues de pserlo.

SR. KAPUNAN. Con la frase " After conviccion. "

SR. VENTURA. Ya no puede, Tiene que ser convixto antes de ser indultado.

SR. KAPUNAN. De manera que el Presidente, segun S . S no puede ejrcer el privilegio de indditar antes de la conviccion, sino tiene que venir el indulto despues de ella.

SR. VENTURA. Pues esta alli en el proyecto.

SR. KAPUNAN. Mi pregunta es si el efecto de esa enmienda de S. S.

SR. VENTURA. La enmienda no tiene nada que ver con ese.

SR. KAPUNAN. Mi pregunta es si su enmienda afectara esa parte.

SR. VENTURA. No afectara para nada, porque la aminstia se refiere nada mas que el indlto de un grupo de personas qa hayan tomado parte en una guera a sediccion o rebelion, y ademas, la idea o la esencia de esa amnistia es que el prodidente tenga esa facultad de o de por si tien esa facultad de dara amnistia sin acusar a aquellas personas que hayan tomado parte en guerra civil.

SR . KAPUNAN. Bueno, la amnistia se ejerce sin ningun prodimiento.

dimiento.

SR. VENTURA. He por si.

SR. KAPUNAN. Muy bien ahora, se puede aplicar eso mismo a un individuo?

SR. VENTURA. Se puede, pero entonces, esa facultad vin o a ser en la linea, en lo que respecta a los indultos, y no a la amnistia.

SR. KAPUNAN. Pero el indulto tal como esta enel draft, no puede ejercerse cuando se trata de u n individuo, sino despues de su conviccion.

SR. VENTURA. Es verdad.

SR. KAPUNAN. Mi pregunta essi puede ejercerse el indulto antes de la conviccion.

SR. VENTURA. No puede cons esta frase de "despues de ser condenado."

SR. KAPUNAN. Entonces la enmienda de S. S. seria inutil.

SR. VENTURA. No , precisamente, es my necesaria, mucho mas desde el punto de vista legal, porque si no ponemos esta como especie de excepcion, entonces el presidente, de la nacion no podria conceder amnistia a un grup de personas sin ser condenado primeramente y eso rine con la idea de amnistia, porque la idea de la amnistia es que las personas no deben ser procesadas porque nunca pudde llamrse amnistia.

MR. VENTENILLA. This power of amnesty is not provided in the United States constitution.

MR. VETURA. Yes.

Mr. venturn. Do you know why ?

MR. VENTUA. Beeuse it does not ned, it is not necessary to include it in the constitution, but there are many controversies in the United States as to the power of the independence of legislative action, and so much as that in some cases decided by the Supreme Court, it was decided that it

was an inherent power of the President, whereas in the other case, it was decided tat it belongs exclusively to the legislature. Allow me to cite to you a case decided at the time o President Johnson, altho it was an act of Congress granting the president the right of amnesty, the President insisted on exercising his right to grant amnesty. That has been the situation in order to avid any conflict between the legislature and the executive. As to which of these departments has the exclusive right to grante amnesty, we do not know. So, it is better to put that; it is absolutely necessary to put in the draft. Furthermore, if we do not put at the end of the paragraph, the President of the Philippine Islands shall not be able to grant amnesty, unless those who are guilty of political offenses are first prosecuted and convicted, which will be entirely absurb and inconsistent with the idea of amnesty, because the grating of that power presupposes that there is no prosecution.

MR. VENTENILLA. When the President is exercising the Amnesty power, is he exercising a military power ?

MR. VENTURA. No you are mistaken. The power to grant amnesty is derived not in the capacity of head of the military and army forces of the nation. In fact, amnesty is an act of grace on the part of sovereign authority to forgive the wrong doing committed by a group of people.

MR. VENTENILLA. DOES It suppose conviction ?

MR. VENTURA. Precisely, it does not presuppose that there is prosecution and conviction. If you do not put that amendment then the President of the Philippine Islands will be deprived of his power to grant amnesty without first convicting tose who are guilty of political offenses.

SR. BUSLOS. Como cuestion de forma, estoy conformes con la enmienda de S. S. no seria mejor que se ponga eso en la primer linea de modo que este parrfo se lea como sigue :

The President shall have the power to grant amnesty and he shall also have the power to grant amnesty.

MR. VENTURA. Yes, that amnesty always refers to a group of people, not to individual and usually it refers to those who are guilty of political offenses.

MR. BIRAG. I have in mind the case of the U. S. v. Guzman wherin the accused was prosecuted in the court of First instance of Zambala and found guilty of murder committed on the person of a certain Spaniard. The accused appealed to the Supreme Court and during the pendency of the case, the amnestly was proclaimed bythe President of the United States and that proclamation as applied to the accused.

MR. VENTURA. Yes, that appears not only in the dase of Guzma but also in the case of U. S. V. Zubarte, Vol. 1 He was prosecued and although he was an ndividual, his case was included of those who had committed an offense aghnst our bovernment by virtue of the amnesty proclamation of the President of the United States. The same is true in the case of Guzman. The crime was committed and was included in the proclamation of amnesty by the President of the United States. His case was included and he was acquitted on that ground.

MR. BUSLON. (Continuing)..... If we can do it here, why wait for the committee on Styel ? I think that should be the intention of this provision, that the political rights are of higher ~~category~~ category and should be first in the order.

MR. VENTURA. Because the word "pardon" is genertic and include the power of amnesty. Thse are decided by the Supreme Court of the Uniged States that the term "amnesty" is more inclusive and should come first and the rest should come afterwards so as to cogtitute as an exsepcion.

MR. BIRAG. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Ilocos Norte may yield if he so desires.

MR. VENTURA. Gladly, Mr. President.

MR. RUBIO. Does amnesty mean an act of grace on the theory that there is prosecution and conviction?

MR. VENTURA. Yes.

MR. RUBIO. That is, the very amnesty can be granted after conviction?

MR. RUBIO. So after all amnesty hey be granted even before prosecution and conviction ?

MR. VENTURA. That the amnesty in that case was granted to him, but it was the fault of the fiscal in filing the complaint against him. In this particular case, the prosecution in the court of Fist Instance took place before the promulgation of amnesty bythe President of the United States and that promulgation was applied in that case.

MR. RUBIO. How can a proclamation apply when it came later?

MR. VENTURA. Because they were found after the proclamation of amnesty by the President of the United States and later on this man was prosecutedand that amnesty proclamation was in favor of all and he was acquitted because he was included by the amnesty proclamation of the President of the United States.

MR. SANTOS. Mr. President, will the gentleman yield to a question?

THE PRESIDENT. The gentleman from Ilocos Norte may yield if he so desires.

MR. VENTURA. Willingly, Mr. President.

MR. SANTOS. Is it nottrue that his pardon and amnesty is a wholesale pardon?

MR. VENTURA. Well, amnesty precisely refers to a group of people.

MR. SANTOS. If that is the case, there is no use of this amendm

this amendment.

MR. VENTURA. There is absolute necessety. If you will read the draft you will see the distinction that the phrase "After conviction" is necessary in this amendment after the paragraph.

SR. VENTURA. No es cuestion de estilo solamente. Esta mañana ha pensado en esa enmienda, pero hay esa objecion porque si S. S. incluye eso el presidente tendra la facultad de conceder indltos y ammistias porque van conjuntamente; entonces habraneceidad de acusar y condenar primero a las personas.

MR. SR. BUSLON. I will read the english section :

> (8) The President shal have the power to grant repreives, commultations and pardons, and remit fines and forfeitures, after donviction, for all offenses except in cases of impeachment , upon such conditions and with such restrictions and limitations as he may deem proper to impose.

MR. VENTURA. For these reasons, I ask the distinguished Delegates to approve the amendment.

SR. PERFECTO. SR. Presidente, deploro tener que hacer uso de la palabra para oponerme a la enmienda de mi distinguido amigo, el Caballero por Ilocos Norte. Ya se ha dicho algo mas de una vez de que el Jefe Ejecutivo que creamos en la constitucion esta investido de enormes poderes; tiene el poder del indulto, tiene el poder del veto, Es jefe del ejercito y de la armada. Es el Jefe Ejecutivo, y yo entiendo que la concesion de esta nueva facultad, de este nuevo poder, podria ser altamente peligroso. Los autores del proyecto que hoy se somete a nuestra consideracion, aleccionados por la Experiencia, ha consignado expres y muy sabiamente de que indulto solo debe considerse despues de que haya habido una conviccion. Esta disposicion es el resultado de una amarga experiencia en el pasado. Se ha consignado, indultamente, para corregir abusos cometidos en el pasado. No es que crea yo de que precisamente el Presi

creo yo de que precisamente el presidente ha de abusar de este poder de amnistia; pero el presidente tiene sus amigos, sus correligionarios, y sus amigos y sus correligionarios podrian inducirla a agusar de se poder de amnisitia. Es verdad de que a amnistia, generalmente, se condes con caracter general a un grupo determinado de infractores de la ley y, generalmente,se aplica a delitos politicos; pero, dede el momento en que concedemos esta facultad al presidente, que le ha de impedir, para conceder la amnistia a casos individuales y por delitos que no sean precisamente politicos, si no por delitos ordinarios? Entiendo que es mejor que esta facultad, si se ha de ejercer alguna vez, es deja a la Asamblea Nacional es decir que la Asamblea puede conceder la amnisitia con la conrurencia del jefe Ejecutivo, pero que no puede concederla ol jefe Ejecutive sin fiscalizacion alguna?

MR. BUSLON. Do I understnd your honor, in favor of striking out the word after conviction ?

MR. PERFECTO.No, precisely I amnot in favor of that.

SR . BUSLON. No cree S. S. que para conseguir la conviccionde un acusado hasta seria necesaio revelar secretos de Estado?

SR. PERFECTO. Puede ocurrir eso; pero esos sn casos tan excepcionale, que no hemos de tenko en cuenta la redactar una constitution.

SR. BUSLON. En ese caso, no seria mejor que se suprimiera esta frase "after conviction."

SR. PERFECTO. Precisamente he dicho dé que sea frase ha sido incluida en el proyecto muy sabiamente para corregir abusos que han ocurrido en el pasado. S. S. recordara casos en que se han consiguido indulto hasta a los que cometieron fraudes en las elecciones, antes de que hayansido convictos.

SR. BUSLON. Lo que pregunto es como vamos a evitar a que serevelen secrtos de Estato para conseguir solamente la conviction de un acusado.

SR. PERFECTO. Alli ha de regir el interesdel Estado . El interes del Estado es an grande como la conservacion de las se cretos del Estado.

SR. ARTADI. Sr. Prsidente, para una pregunta al orador.

EL PRESIDENTE. El orador puede contestar, si le place.

SR. PERFECTO. Si,señor.

SR. ARTADI. Cree S. S. que la vindicta publica estaria satisfehha con qe el Presidente concediese la amnistia a un acusado que ha causado la merte de alguns miembros de alguna familia?

SR. PERFECTO. Yo abadezco esa pregunta, porquecreo que es un argumento contundente en contra de la enminenda. Un presidente, en un caso en que se han cometido delitos, podria favorece a sus partidrios, concediendoles amnistias y no concederla, a los advsarios.

SR. VENTURA. Sr . Presidente, pra algunas pregntas al orador.

EL PRSIDENTE. El Orador puede contestar si le place.

SR. PERFECTO.Si, señor.

SR. VENTURA. No cree S. S. de qe no podria el prsidente favorecer solamente a sus partidatos, en vista de quela amnistia se concede a los que se han soblevado ?

SR. PERFECTO. Ordinariamente. Un presidente justo Maria eso; pero un presidnt movido por influencias indebidas podria o brar de distinto modo, concediendo amnistia a sus partidarios y apurar la persecucion de sus advsarios.

SR. VENTURA. No veo comopuede ocurrir esto.

SR. PERFECTO. Pero es mejor cerrar las puertas.

SR. VENTURA. Si concede la amnistia a algunas dividuus eso seria ejecer la facultad de indultar uno la amnistia.

SR. PERFECTO. Es amnisita. Es indulto cuandose concede despues de una conviccion; y es amnistia cuando se concede antes de la donviccion "Amnistia " viene de la plabra "manestia." es decir olvidar; y olvidar, quiere olvidarse del delito

que se ha cometido."Indulto" es perdon, y solo se concede o despues de cometido un delito; y amnistia es concede cuando no hay delito.

SR. VENTURA. Pero eso se refiere a delitod politicos

PERFECTO. La palabra amnisitia no envuelve necesariamente de que puede concederse solamente en casa de dàlitos politicos.

SR. ARTADI. Sr. Presidente, para otra pregunta al orador

EL PRESIDENTE. El orador puede contestar, si le place.

SR. PERFECTO. Si, señor.

SR. ARTADI. Entonces S. S. cree que la amnistia es un arma my peligros que se coloca en manos del Presidente?

SR. PERFECTO. Es mas pelgigros que el arma que se concede al presidente de ser el jefe de las fuerzas navales y militares.

SR. RAFOLS. Sr. presidente, para algunas preguntas al orador.

EL PRESIDENTE. El orador puede contestar, si le place.

SR. PERFECTO. Si, señor.

SR. RAFOSL. Yo quisiera que se aclare al verdadera significacion de la palabra "amnistia" porque el Delegado por Co bu, Sr.Sotto (F.), dijo que amnistia, en terminos constitucionales, se refire a delitos politicos, y hora S. S. trae una definicion distinta. De acuerdo con S. S. un hombre mata a malversa fondos publicos puede ser objecta de amnistia si el presidente de la republica quiere perdonarle sin proceso legal.

SR. PERFECTO. Si se la concede esa facultd, si, señor.

SR. RAFOLS. De manera quesa gracia del presidente de la republica puede ser ejercida para toda clase de delitos?

SR. PERFECTO. Exactamente.

SR. RAFOLS. Si, es si, no estoy conforme conla enmienda .

SR. RAFOLS.

SR. PERFECTO. La diferencia esta en el tiempo en que se ejerc la facultad.

SR. ARTADI. S^a. Presidente, para algunas preguntas al orador.

EL PRESIDENTE. El orador puede contestar, sile place.

SR. PERFETO. Si, señor.

SR. ARTADI. No oree S. S. de que la amnistia pede fomentar la comision de delitos abominables, porque un bandido puede secuetrar al hijo del presidente e imponerle como condicion que si no le entrega esos cincuenta mil o la condicion se la amnistia, no le entregria vivo a su hijo.

SR. PERFECTO. El preidente Machado de Cuba, fue derrocado, entre otras ccasas, por haber cometido abusos en la concesion de indultos y de amnistia en fwor de sus partidarios.

SR. CONFESOR. Señor Presidente, para una pregunta de privilegio. E n el periodico " Union" de fecha 17 del ppresente me, aparece un articulo bastant extenso sobre el Asunto "Vinzons," en el que se hacen cometarios muy senigrantes al prestigio de los miembros de esta Asamblea. En uno de sus parrafos se dice que la Agamble aprobo la mocion de envio.. . . . . .

SR. CUENCO. Sr. Presidente, para una cuestion de orden. Cro que el Delegado por Iloilo no tiene derecho de traer aqui todo lo que se publica en la prensa. No atañe al privilegio de nadie.

SR. CONFESOR. Si, señor, porque este periodico es publica por una que se miembro de esta asamblea

SR. CUENCO. No importa.

EL PRESIDENTE. INTERINO. La Mesa va a resolver la duestion de orden. La Mesa entiende que el Delegado por Iloilo tiene derecho a continuar en el uso de la palabra.

SR. CONFESOR. S^a. Presidente, como decia, en uno de los parrafos dd este articulo se dice que al probar

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esta Asamblea, en el caso Vinzons, el endoso de aquel periodico al comite de Gobierno interior para la accion disciplinaria correspondiente a sus editores, lo habiamos hecho maquinalmente, sin sonbe.lo que haciamos, sin medir sus alcances. Lo cual quiere decir quesomos unos irresponsables que votamos cuestiones importantes sin saber, y esto es denigrante para la dignidad y el decoro de los miembros de esta Asamblea, por cuyo motivo presento la mo.ion de que un ejemplar de ste periodico, y el Sr. Vicente Sotto sean endosados al comite de Gobierno Interior.

MR. ABORDO. Mr.President, will the gentleman yield?

THE ACTING PRESIDENT. The gentleman may yield if he so desires.

MR. CONFESOR. Willingly.

MR. ABORDO. I would like to find out if the charges have been filed against Delegate Sotto.

MR. CONFESOR. Well, I am filing now.

MR. ABORDO . Does the gentleman from Cebu believe that the article as published constitutes a great offense against the dignity and decorum of the Assembly ?

MR. CONFESOR. Yes, sir; because the paper says that we voted on the question without knowing the important significance.

SR. LIM. Señor Presidente, para algunas preguntas al orador.

EL PRESIDENTE INTERINO. El orador puede contestar, si le place.

SR. LIM. Sabe S. S. que copias de este semanario se repartieron gratuitamente a los miembros de esta convencion?

SR. CONFESOR. Al menos yo he recibido gratuitamente esta ejemplar.

SR. LIM. Sabe

SR. LIM. Sabe S. S. que se depositaron copias de este semantio gratuitamete en el buzon que tenemos arriba?

SR. CONFESOR. No lo se. Lo unico que se es que yo he recibido este ejmplar que tenfo gratitamente.

SR. ENRIQUEZ. Sr. Presidente, para algunas preguntas al orador.

EL PRESIDENTE INTERINO. El orador puede contestar, si le place.

SR. CONFESOR. SI, señor.

SR. ENRIQUEZ. S. S. ha habldi de que todos hemos votado sin sber aquela reslucion

SR. CONFESOR. Yo no ha dicho eso.

SR. ENRIQUEZ. Ahora yo lo pregunto si S. S. ha votando sin saberaquellos resolucion.

SR. CONFESOR. Precisamene estoy hablando en contra.

SR. ENRIQUEZ. Entonces S. S. quiere decir que voto conscientemente.

SR. CONFESOR. Si, señor.

SR. ENRIQUEZ. El que ahora le pregunta tambien ha votado inteligentemente.

MR. SEVILLA. Mr. President, will the gentleman yield?

THE ACTING PRESIDENT. The gentlman may yield, if he so desires.

MR. CONFESOR. Willingly.

MR. SEVILLA. Are you sure that the editor of that paper calsd "Union is Delegate Sotto (V)?

MR. CONFESOR. Well, he is here and he does not say no.

MR. SEVILLA. Does his name appar in any part of the paper tha justifis your claim?

MR. CONFESOR. Well, in one part, here, He does not object, he does not say anything, he owns what it says here.

MR. ESCAREAL. Mr. President, for an amendment, that instead of the committee on Interior Government, it be referred to the Committee on Rule.

MR. CABILI. Mr. President, I have registered a nrn to speak.

MR. ESCAREAL. There is an amendment before the table, Mr. President.

EL PRESIDENTE INTERINO. (Que dice Delegado por Iloilo sobrela enmienda?

SR. CONFESOR. No la acepto. Ademas son enmienda esta fuera de orden.

EL PRESIDENTE. Interino. Estadispuesta la Asamblea avotar sobre la mocion del Delegado Sr. Confesor.

MR. CABILI. Mr. President and Gentleman of the Convention.....

MR. VILLAREAL. Mr. President, ecording to the rules, tis privileged question is nordebatable, and the gentleman is out of order.

SR. ABELA. S^R. Presiente, pido que se levante la sesion.

EL PRESIDENTE INTERINO. Sr. Presidente, pid que se levante la sesion.

EL PRESIDENTE INTERINO. Se ha presentado la mocion de que se levante la sesion. Los que esten conformes con dicha moion tengan la bondad de decir si. (Una mayoria Si) Los ue esten en contra, sirvanse decir no. (Una minoria: No.). se levanta la sesion.

Eran las 6:55 p. m.